

Effective 7/1/2021

Title 63N. Economic Opportunity Act

**Chapter 1a
Economic Opportunity Organization**

**Part 1
General Provisions**

63N-1a-101 Title.

- (1) This title is known as the "Economic Opportunity Act."
- (2) This chapter is known as "Economic Opportunity Organization."

Renumbered and Amended by Chapter 282, 2021 General Session

63N-1a-102 Definitions.

As used in this title:

- (1) "Baseline jobs" means the number of full-time employee positions that existed within a business entity in the state before the date on which a project related to the business entity is approved by the office or by the GO Utah board.
- (2) "Baseline state revenue" means the amount of state tax revenue collected from a business entity or the employees of a business entity during the year before the date on which a project related to the business entity is approved by the office or by the GO Utah board.
- (3) "Commission" means the Unified Economic Opportunity Commission created in Section 63N-1a-201.
- (4) "Economic opportunity agency" includes:
 - (a) the Department of Workforce Services;
 - (b) the Department of Cultural and Community Engagement;
 - (c) the Department of Commerce;
 - (d) the Department of Natural Resources;
 - (e) the Office of Energy Development;
 - (f) the State Board of Education;
 - (g) institutions of higher education;
 - (h) the Utah Multicultural Commission;
 - (i) the World Trade Center Utah;
 - (j) local government entities;
 - (k) associations of governments;
 - (l) the Utah League of Cities and Towns;
 - (m) the Utah Association of Counties;
 - (n) the Economic Development Corporation of Utah;
 - (o) the Small Business Administration;
 - (p) chambers of commerce;
 - (q) industry associations;
 - (r) small business development centers; and
 - (s) other entities identified by the commission or the executive director.
- (5) "Executive director" means the executive director of the office.

- (6) "Full-time employee" means an employment position that is filled by an employee who works at least 30 hours per week and:
 - (a) may include an employment position filled by more than one employee, if each employee who works less than 30 hours per week is provided benefits comparable to a full-time employee; and
 - (b) may not include an employment position that is shifted from one jurisdiction in the state to another jurisdiction in the state.
- (7) "GO Utah board" means the Business and Economic Development Subcommittee created in Section 63N-1b-202.
- (8) "High paying job" means a newly created full-time employee position where the aggregate average annual gross wage of the employment position, not including health care or other paid or unpaid benefits, is:
 - (a) at least 110% of the average wage of the county in which the employment position exists; or
 - (b) for an employment position related to a project described in Chapter 2, Part 1, Economic Development Tax Increment Financing, and that is located within the boundary of a county of the third, fourth, fifth, or sixth class, or located within a municipality in a county of the second class and where the municipality has a population of 10,000 or less:
 - (i) at least 100% of the average wage of the county in which the employment position exists; or
 - (ii) an amount determined by rule made by the office in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, if the office determines the project is in a county experiencing economic distress.
- (9)
 - (a) "Incremental job" means a full-time employment position in the state that:
 - (i) did not exist within a business entity in the state before the beginning of a project related to the business entity; and
 - (ii) is created in addition to the number of baseline jobs that existed within a business entity.
 - (b) "Incremental job" includes a full-time employment position where the employee is hired:
 - (i) directly by a business entity; or
 - (ii) by a professional employer organization, as defined in Section 31A-40-102, on behalf of a business entity.
- (10) "New state revenue" means the state revenue collected from a business entity or a business entity's employees during a calendar year minus the baseline state revenue calculation.
- (11) "Office" or "GO Utah office" means the Governor's Office of Economic Opportunity.
- (12) "State revenue" means state tax liability paid by a business entity or a business entity's employees under any combination of the following provisions:
 - (a) Title 59, Chapter 7, Corporate Franchise and Income Taxes;
 - (b) Title 59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and Information;
 - (c) Title 59, Chapter 10, Part 2, Trusts and Estates;
 - (d) Title 59, Chapter 10, Part 4, Withholding of Tax; and
 - (e) Title 59, Chapter 12, Sales and Use Tax Act.
- (13) "State strategic goals" means the strategic goals listed in Section 63N-1a-103.
- (14) "Statewide economic development strategy" means the economic development strategy developed by the commission in accordance with Section 63N-1a-202.

Renumbered and Amended by Chapter 282, 2021 General Session
Amended by Chapter 381, 2021 General Session

63N-1a-103 Purpose.

- (1) The mission of the Economic Opportunity Act and the entities established herein is to catalyze strategic economic opportunities for all residents of the state with a vision of creating economically thriving communities, businesses, and families throughout the state.
- (2) The mission and vision are realized through targeted efforts that demonstrably improve quality of life, measured by the extent to which the efforts accomplish the following strategic goals:
 - (a) catalyzing targeted industry growth;
 - (b) supporting economically thriving communities;
 - (c) empowering students and workers with market-relevant skills;
 - (d) stimulating economic growth in rural and multicultural communities through household level efforts; and
 - (e) securing healthy and resilient ecosystems for current and future generations.

Enacted by Chapter 282, 2021 General Session

Part 2

Creation of Unified Economic Opportunity Commission

63N-1a-201 Creation of commission.

- (1) There is created in the office the Unified Economic Opportunity Commission, established to carry out the mission described in Section 63N-1a-103 and direct the office and other appropriate entities in fulfilling the state's strategic goals.
- (2) The commission consists of:
 - (a) the following voting members:
 - (i) the governor, who shall serve as the chair of the commission;
 - (ii) the executive director, who shall serve as the vice chair of the commission;
 - (iii) the executive director of the Department of Workforce Services;
 - (iv) the executive director of the Department of Transportation;
 - (v) the executive director of the Department of Natural Resources;
 - (vi) the executive director of the Department of Commerce;
 - (vii) the commissioner of the Department of Agriculture and Food;
 - (viii) the executive director of the Governor's Office of Planning and Budget;
 - (ix) the commissioner of higher education;
 - (x) the state superintendent of public instruction;
 - (xi) the president of the Senate or the president's designee;
 - (xii) the speaker of the House of Representatives or the speaker's designee;
 - (xiii) one individual who is knowledgeable about housing needs in the state, including housing density and land use, appointed by the governor;
 - (xiv) one individual who represents the interests of urban cities, appointed by the Utah League of Cities and Towns; and
 - (xv) one individual who represents the interests of rural counties, appointed by the Utah Association of Counties; and
 - (b) the following non-voting members:
 - (i) the chief executive officer of World Trade Center Utah;
 - (ii) the chief executive officer of the Economic Development Corporation of Utah; and
 - (iii) a senior advisor to the chair of the commission with expertise in rural affairs of the state, appointed by the chair of the commission.

- (3) A majority of commission members constitutes a quorum for the purposes of conducting commission business and the action of a majority of a quorum constitutes the action of the commission.
- (4) The executive director of the office, or the executive director's designee, is the executive director of the commission.
- (5) The office shall provide:
 - (a) office space and administrative staff support for the commission; and
 - (b) the central leadership and coordination of the commission's efforts in the field of economic development.
- (6)
 - (a) A member may not receive compensation or benefits for the member's service on the commission, but may receive per diem and travel expenses in accordance with:
 - (i) Sections 63A-3-106 and 63A-3-107; and
 - (ii) rules made by the Division of Finance in accordance with Sections 63A-3-106 and 63A-3-107.
 - (b) Compensation and expenses of a commission member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

Enacted by Chapter 282, 2021 General Session

63N-1a-202 Commission duties.

- (1) The commission shall:
 - (a) develop, coordinate, and lead a comprehensive statewide economic development strategy that:
 - (i) unifies and coordinates economic development efforts in the state;
 - (ii) includes key performance indicators for long-term progress toward the state strategic goals;
 - (iii) establishes reporting and accountability processes for the key performance indicators; and
 - (iv) ensures the success of the statewide economic development strategy is shared among the urban and rural areas of the state;
 - (b) receive feedback, input, and reports from economic opportunity agencies regarding programs related to the statewide economic development strategy;
 - (c) develop the statewide economic strategy in view of the state water policy described in Section 73-1-21, including the state's commitment to appropriate conservation, efficient and optimal use of water resources, infrastructure development and improvement, optimal agricultural use, water quality, reasonable access to recreational activities, effective wastewater treatment, and protecting and restoring healthy ecosystems;
 - (d) direct and facilitate changes to or recommend elimination of economic development programs to ensure alignment with the mission and vision described in Section 63N-1a-103;
 - (e) at least once every five years, identify industry clusters on which the commission recommends the state focus recruiting and expansion efforts;
 - (f) establish strategies for the recruitment and retention of targeted industry clusters while respecting the different needs of rural and urban areas throughout the state;
 - (g) establish strategies for supporting entrepreneurship and small business development in the state;
 - (h) analyze the state's projected long-term population and economic growth and plan for the anticipated impacts of the projected growth in a manner that improves quality of life and is consistent with the statewide economic development strategy and state strategic goals;

- (i) identify gaps and potential solutions related to improving infrastructure, especially as related to the state's projected long-term population growth;
 - (j) support the development of a prepared workforce that can support critical industries and industry clusters identified by the commission;
 - (k) coordinate and develop strategies that assist education providers and industry to cooperate in supporting students in developing market relevant skills to meet industry needs;
 - (l) develop strategies and plans to ensure comprehensive economic development efforts are targeted to the unique needs of rural areas of the state;
 - (m) study the unique needs of multicultural communities throughout the state and develop household-level plans to ensure residents of the state can participate in economic opportunities in the state;
 - (n) ensure the commission's efforts are, to the extent practicable, data-driven and evidence-based;
 - (o) support an integrated international trade strategy for the state;
 - (p) facilitate coordination among public, private, and nonprofit economic opportunity agencies; and
 - (q) in performing the commission's duties, consider the recommendations of the subcommittees described in Chapter 1b, Commission Subcommittees.
- (2) The commission shall provide a report to the office for inclusion in the office's annual written report described in Section 63N-1a-306, that includes:
- (a) the statewide economic development strategy;
 - (b) a description of how the commission fulfilled the commission's statutory purposes and duties during the year, including any relevant findings;
 - (c) the key performance indicators included in the statewide economic development strategy, including data showing the extent to which the indicators are being met; and
 - (d) any legislative recommendations.

Enacted by Chapter 282, 2021 General Session

Part 3

Creation of Governor's Office of Economic Opportunity

63N-1a-301 Creation of office -- Responsibilities.

- (1) There is created the Governor's Office of Economic Opportunity.
- (2) The office is:
 - (a) responsible for implementing the statewide economic development strategy developed by the commission; and
 - (b) the industrial and business promotion authority of the state.
- (3) The office shall:
 - (a) consistent with the statewide economic development strategy, coordinate and align into a single effort the activities of the economic opportunity agencies in the field of economic development;
 - (b) provide support and direction to economic opportunity agencies in establishing goals, metrics, and activities that align with the statewide economic development strategy;
 - (c) administer and coordinate state and federal economic development grant programs;

- (d) promote and encourage the economic, commercial, financial, industrial, agricultural, and civic welfare of the state;
 - (e) promote and encourage the employment of workers in the state and the purchase of goods and services produced in the state by local businesses;
 - (f) act to create, develop, attract, and retain business, industry, and commerce in the state, in accordance with the statewide economic development plan and commission directives;
 - (g) act to enhance the state's economy;
 - (h) act to assist strategic industries that are likely to drive future economic growth;
 - (i) assist communities in the state in developing economic development capacity and coordination with other communities;
 - (j) identify areas of education and workforce development in the state that can be improved to support economic and business development;
 - (k) consistent with direction from the commission, develop core strategic priorities for the office, which may include:
 - (i) enhancing statewide access to entrepreneurship opportunities and small business support;
 - (ii) focusing industry recruitment and expansion on strategically chosen clusters of industries;
 - (iii) ensuring that in awarding competitive economic development incentives the office accurately measures the benefits and costs of the incentives; and
 - (iv) assisting communities with technical support to aid those communities in improving economic development opportunities;
 - (l) submit an annual written report as described in Section 63N-1a-306; and
 - (m) perform other duties as provided by the Legislature.
- (4) In order to perform its duties under this title, the office may:
- (a) enter into a contract or agreement with, or make a grant to, a public or private entity, including a municipality, if the contract or agreement is not in violation of state statute or other applicable law;
 - (b) except as provided in Subsection (4)(c), receive and expend funds from a public or private source for any lawful purpose that is in the state's best interest; and
 - (c) solicit and accept a contribution of money, services, or facilities from a public or private donor, but may not use the contribution for publicizing the exclusive interest of the donor.
- (5) Money received under Subsection (4)(c) shall be deposited in the General Fund as dedicated credits of the office.
- (6)
- (a) The office shall:
 - (i) obtain the advice of the GO Utah board before implementing a change to a policy, priority, or objective under which the office operates; and
 - (ii) provide periodic updates to the commission regarding the office's efforts under Subsections (3)(a) and (b).
 - (b) Subsection (6)(a)(i) does not apply to the routine administration by the office of money or services related to the assistance, retention, or recruitment of business, industry, or commerce in the state.

Renumbered and Amended by Chapter 282, 2021 General Session

63N-1a-302 Executive director of office -- Appointment -- Removal -- Compensation.

- (1) The office shall be administered, organized, and managed by an executive director appointed by the governor, with the advice and consent of the Senate.
- (2) The executive director serves at the pleasure of the governor.

- (3) The salary of the executive director shall be established by the governor within the salary range fixed by the Legislature in Title 67, Chapter 22, State Officer Compensation.

Renumbered and Amended by Chapter 282, 2021 General Session

63N-1a-303 Powers and duties of executive director.

- (1) Unless otherwise expressly provided by statute, the executive director may organize the office in any appropriate manner, including the appointment of deputy directors of the office.
- (2) The executive director may consolidate personnel and service functions for efficiency and economy in the office.
- (3) The executive director, with the approval of the governor:
 - (a) may, by following the procedures and requirements of Title 63J, Chapter 5, Federal Funds Procedures Act, seek federal grants, loans, or participation in federal programs;
 - (b) may enter into a lawful contract or agreement with another state, a chamber of commerce organization, a service club, or a private entity; and
 - (c) shall annually prepare and submit to the governor a budget of the office's financial requirements.
- (4) With the governor's approval, if a federal program requires the expenditure of state funds as a condition for the state to participate in a fund, property, or service, the executive director may expend necessary funds from money provided by the Legislature for the use of the office.
- (5) The executive director shall coordinate with the executive directors of the Department of Workforce Services and the Governor's Office of Planning and Budget to review data and metrics to be reported to the Legislature as described in Subsection 63N-1a-306(2)(b).

Renumbered and Amended by Chapter 282, 2021 General Session

Amended by Chapter 382, 2021 General Session

63N-1a-304 Executive director and the Public Service Commission.

- (1) The executive director or the executive director's designee shall:
 - (a) become generally informed of significant rate cases and policy proceedings before the Public Service Commission; and
 - (b) monitor and study the potential economic development impact of these proceedings.
- (2) In the discretion of the executive director or the executive director's designee, the office may appear in a proceeding before the Public Service Commission to testify, advise, or present argument regarding the economic development impact of a matter that is the subject of the proceeding.

Renumbered and Amended by Chapter 282, 2021 General Session

63N-1a-305 Incentive review process.

The Legislature intends that the office will develop an incentives review process under the direction of the speaker of the House and the president of the Senate.

Renumbered and Amended by Chapter 282, 2021 General Session

63N-1a-306 Annual report -- Content -- Format.

- (1) The office shall prepare and submit to the governor and the Legislature, by October 1 of each year, an annual written report of the operations, activities, programs, and services of the office,

including the divisions, sections, boards, commissions, councils, and committees established under this title, for the preceding fiscal year.

- (2) For each operation, activity, program, or service provided by the office, the annual report shall include:
 - (a) a description of the operation, activity, program, or service;
 - (b) data and metrics:
 - (i) selected and used by the office to measure progress, performance, effectiveness, and scope of the operation, activity, program, or service, including summary data; and
 - (ii) that are consistent and comparable for each state operation, activity, program, or service that primarily involves employment training or placement as determined by the executive directors of the office, the Department of Workforce Services, and the Governor's Office of Planning and Budget;
 - (c) budget data, including the amount and source of funding, expenses, and allocation of full-time employees for the operation, activity, program, or service;
 - (d) historical data from previous years for comparison with data reported under Subsections (2)(b) and (c);
 - (e) goals, challenges, and achievements related to the operation, activity, program, or service;
 - (f) relevant federal and state statutory references and requirements;
 - (g) contact information of officials knowledgeable and responsible for each operation, activity, program, or service; and
 - (h) other information determined by the office that:
 - (i) may be needed, useful, or of historical significance; or
 - (ii) promotes accountability and transparency for each operation, activity, program, or service with the public and elected officials.
- (3) The annual report shall be designed to provide clear, accurate, and accessible information to the public, the governor, and the Legislature.
- (4) The office shall:
 - (a) submit the annual report in accordance with Section 68-3-14;
 - (b) make the annual report, and previous annual reports, accessible to the public by placing a link to the reports on the office's website; and
 - (c) provide the data and metrics described in Subsection (2)(b) to the Talent, Education, and Industry Alignment Subcommittee created in Section 63N-1b-301.

Renumbered and Amended by Chapter 282, 2021 General Session
Amended by Chapter 382, 2021 General Session

Chapter 1b

Commission Subcommittees

Part 1

General Provisions

63N-1b-101 Definitions.

As used in this chapter:

- (1) "Apprenticeship program" means a program that:

- (a) combines paid on-the-job learning with formal classroom instruction to prepare students for careers; and
- (b) includes:
 - (i) structured on-the-job learning for students under the supervision of a skilled employee;
 - (ii) classroom instruction for students related to the on-the-job learning;
 - (iii) ongoing student assessments using established competency and skills standards; and
 - (iv) the student receiving an industry-recognized credential or degree upon completion of the program.
- (2) "Career and technical education region" means an economic service area created in Section 35A-2-101.
- (3) "High quality professional learning" means the professional learning standards for teachers and principals described in Section 53G-11-303.
- (4) "Institution of higher education" means the University of Utah, Utah State University, Southern Utah University, Weber State University, Snow College, Dixie State University, Utah Valley University, or Salt Lake Community College.
- (5) "Local education agency" means a school district, a charter school, or the Utah Schools for the Deaf and the Blind.
- (6) "Master plan" means the computer science education master plan described in Section 63N-1b-304.
- (7) "Participating employer" means an employer that:
 - (a) partners with an educational institution on a curriculum for an apprenticeship program or work-based learning program; and
 - (b) provides an apprenticeship or work-based learning program for students.
- (8) "State board" means the State Board of Education.
- (9) "Talent program" means the Talent Ready Utah Program created in Section 63N-1b-302.
- (10) "Talent subcommittee" means the Talent, Education, and Industry Alignment Subcommittee created in Section 63N-1b-301.
- (11) "Technical college" means:
 - (a) the same as that term is defined in Section 53B-1-101.5; and
 - (b) a degree-granting institution acting in the degree-granting institution's technical education role described in Section 53B-2a-201.
- (12)
 - (a) "Work-based learning program" means a program that combines structured and supervised learning activities with authentic work experiences and that is implemented through industry and education partnerships.
 - (b) "Work-based learning program" includes the following objectives:
 - (i) providing students an applied workplace experience using knowledge and skills attained in a program of study that includes an internship, externship, or work experience;
 - (ii) providing an educational institution with objective input from a participating employer regarding the education requirements of the current workforce; and
 - (iii) providing funding for programs that are associated with high-wage, in-demand, or emerging occupations.
- (13) "Workforce programs" means education or industry programs that facilitate training the state's workforce to meet industry demand.

Amended by Chapter 187, 2021 General Session, (Coordination Clause)

Enacted by Chapter 282, 2021 General Session

63N-1b-102 Subcommittees generally.

- (1) Each subcommittee created under this part or by the commission in accordance with this section serves under the direction of the commission and shall assist the commission in performing the commission's duties.
- (2) In addition to the subcommittees created under this part, the commission may establish one or more subcommittees to assist and advise the commission on specified topics or issues relevant to the commission's duties, including:
 - (a) rural economic growth;
 - (b) sustainable community growth;
 - (c) small business and entrepreneurship;
 - (d) multicultural economic empowerment; and
 - (e) international relations, trade, and immigration.
- (3) When establishing a subcommittee under Subsection (2), the commission shall:
 - (a) appoint members to the subcommittee that represent a range of views and expertise; and
 - (b) adopt subcommittee procedures and directives.
- (4)
 - (a) A member of a subcommittee may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:
 - (i) Section 63A-3-106;
 - (ii) Section 63A-3-107; and
 - (iii) rules made by the Division of Finance under Sections 63A-3-106 and 63A-3-107.
 - (b) Compensation and expenses of a subcommittee member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

Enacted by Chapter 282, 2021 General Session

Part 2
Business and Economic Development Subcommittee

63N-1b-201 Business and Economic Development -- Subcommittee -- Creation -- Membership -- Expenses.

- (1)
 - (a) There is created a subcommittee of the commission, called the Business and Economic Development Subcommittee, consisting of 15 members appointed by the chair of the commission, in consultation with the executive director, to four-year terms of office with the advice and consent of the Senate in accordance with Title 63G, Chapter 24, Part 2, Vacancies, including:
 - (i) a representative from a rural association of governments;
 - (ii) a rural representative of agriculture;
 - (iii) a rural representative of the travel industry;
 - (iv) a representative of rural utilities; and
 - (v) a representative from the oil, gas, or mineral extraction industry.
 - (b) Notwithstanding the requirements of Subsection (1)(a), the chair of the commission shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the subcommittee is appointed every two years.

- (c) The members may not serve more than two full consecutive terms except where the chair of the commission determines that an additional term is in the best interest of the state.
- (2) In appointing members of the committee, the chair of the commission shall ensure that:
 - (a) no more than eight members of the subcommittee are from one political party; and
 - (b) members represent a variety of geographic areas and economic interests of the state.
- (3) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term in accordance with Title 63G, Chapter 24, Part 2, Vacancies.
- (4) Eight members of the subcommittee constitute a quorum for conducting board business and exercising board power.
- (5) The chair of the commission shall select one subcommittee member as the subcommittee's chair and one member as the subcommittee's vice chair.
- (6) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:
 - (a) Section 63A-3-106;
 - (b) Section 63A-3-107; and
 - (c) rules made by the Division of Finance under Sections 63A-3-106 and 63A-3-107.
- (7) A member shall comply with the conflict of interest provisions described in Title 63G, Chapter 24, Part 3, Conflicts of Interest.
- (8) Nothing in this section prohibits an individual who, on May 4, 2021, is a member of a board within the office known as the Board of Business and Economic Development from serving as a member of the GO Utah board.

Renumbered and Amended by Chapter 282, 2021 General Session

63N-1b-202 Business and Economic Development Subcommittee duties and powers.

- (1) The Business and Economic Development Subcommittee shall advise and assist the commission to:
 - (a) promote and encourage the economic, commercial, financial, industrial, agricultural, and civic welfare of the state;
 - (b) promote and encourage the development, attraction, expansion, and retention of businesses, industries, and commerce in the state;
 - (c) support the efforts of local government and regional nonprofit economic development organizations to encourage expansion or retention of businesses, industries, and commerce in the state;
 - (d) act to enhance the state's economy;
 - (e) work in conjunction with companies and individuals located or doing business in the state to secure favorable rates, fares, tolls, charges, and classification for transportation of persons or property by:
 - (i) railroad;
 - (ii) motor carrier; or
 - (iii) other common carriers;
 - (f) develop policies, priorities, and objectives regarding the assistance, retention, or recruitment of business, industries, and commerce in the state;
 - (g) administer programs for the assistance, retention, or recruitment of businesses, industries, and commerce in the state;
 - (h) ensure that economic development programs are available to all areas of the state in accordance with federal and state law;
 - (i) identify local, regional, and statewide rural economic development and planning priorities;

- (j) understand, through study and input, issues relating to local, regional, and statewide rural economic development, including challenges, opportunities, best practices, policy, planning, and collaboration; and
 - (k) maintain ethical and conflict of interest standards consistent with those imposed on a public officer under Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act.
- (2) The subcommittee shall:
- (a) serve as an advisory board to the commission on rural economic development issues;
 - (b) prepare an annual strategic plan that:
 - (i) identifies rural economic development, planning, and leadership training challenges, opportunities, priorities, and objectives; and
 - (ii) includes a work plan for accomplishing the objectives referred to in Subsection (1)(b)(i); and
 - (c) oversee the Rural County Grant Program created in Section 17-54-103.
- (3) The subcommittee may:
- (a) in accordance with Subsection (1)(e), appear as a party litigant on behalf of an individual or a company located or doing business in the state in a proceeding before a regulatory commission of the state, another state, or the federal government; and
 - (b) in consultation with the executive director, make, amend, or repeal rules for the conduct of its business consistent with this part and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Renumbered and Amended by Chapter 282, 2021 General Session

Part 3

Talent, Education, and Industry Alignment Subcommittee

63N-1b-301 Talent, Education, and Industry Alignment Subcommittee -- Creation -- Membership -- Expenses -- Duties.

- (1) There is created a subcommittee of the commission called the Talent, Education, and Industry Alignment Subcommittee composed of the following members:
- (a) the state superintendent of public instruction or the superintendent's designee;
 - (b) the commissioner of higher education or the commissioner of higher education's designee;
 - (c) the chair of the State Board of Education or the chair's designee;
 - (d) the executive director of the Department of Workforce Services or the executive director of the department's designee;
 - (e) the executive director of the GO Utah office or the executive director's designee;
 - (f) the director of the Division of Occupational and Professional Licensing or the director's designee;
 - (g) the governor's education advisor or the advisor's designee;
 - (h) one member of the Senate, appointed by the president of the Senate;
 - (i) one member of the House of Representatives, appointed by the speaker of the House of Representatives;
 - (j) the president of the Salt Lake Chamber or the president's designee;
 - (k) three representatives of private industry chosen by the commission;
 - (l) a representative of the technology industry chosen by the commission;
 - (m) the lieutenant governor or the lieutenant governor's designee; and
 - (n) any additional individuals appointed by the commission who represent:

- (i) one or more individual educational institutions; or
 - (ii) education or industry professionals.
- (2) The commission shall select a chair and vice chair from among the members of the talent subcommittee.
- (3) The talent subcommittee shall meet at least quarterly.
- (4) Attendance of a majority of the members of the talent subcommittee constitutes a quorum for the transaction of official talent subcommittee business.
- (5) Formal action by the talent subcommittee requires the majority vote of a quorum.
- (6) A member of the talent subcommittee:
 - (a) may not receive compensation or benefits for the member's service; and
 - (b) who is not a legislator may receive per diem and travel expenses in accordance with:
 - (i) Section 63A-3-106;
 - (ii) Section 63A-3-107; and
 - (iii) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.
- (7) The talent subcommittee shall:
 - (a)
 - (i) review and develop metrics to measure the progress, performance, effectiveness, and scope of any state operation, activity, program, or service that primarily involves employment training or placement; and
 - (ii) ensure that the metrics described in Subsection (7)(a) are consistent and comparable for each state operation, activity, program, or service that primarily involves employment training or placement;
 - (b) make recommendations to the commission regarding how to better align training and education in the state with industry demand;
 - (c) make recommendations to the commission regarding how to better align technical education with current and future workforce needs; and
 - (d) coordinate with the commission to meet the responsibilities described in Subsection 63N-1b-302(4).

Renumbered and Amended by Chapter 282, 2021 General Session

63N-1b-302 Talent Ready Utah Program.

- (1) There is created within the office the Talent Ready Utah Program.
- (2) The executive director shall appoint a director of the talent program.
- (3) The director of the talent program may appoint staff with the approval of the executive director.
- (4) The talent program shall coordinate with the talent subcommittee to:
 - (a) further education and industry alignment in the state;
 - (b) coordinate the development of new education programs that align with industry demand;
 - (c) coordinate or partner with other state agencies to administer grant programs;
 - (d) promote the inclusion of industry partners in education;
 - (e) provide outreach and information to employers regarding workforce programs and initiatives;
 - (f) develop and analyze stackable credential programs;
 - (g) determine efficiencies among workforce providers;
 - (h) map available workforce programs focusing on programs that successfully create high-paying jobs; and
 - (i) support initiatives of the talent subcommittee.

Renumbered and Amended by Chapter 282, 2021 General Session

63N-1b-303 Reporting.

The talent program shall prepare an annual report describing the talent program's operations and recommendations for inclusion in the office's annual written report described in Section 63N-1a-306, including the results of the apprenticeship pilot program described in Section 63N-1b-306.

Renumbered and Amended by Chapter 282, 2021 General Session

63N-1b-304 Computer science education master plan.

The talent subcommittee, in consultation with the state board and the talent program, shall develop a computer science education master plan that:

- (1) includes a statement of the objectives and goals of the master plan;
- (2) describes how the talent subcommittee and the state board will administer the Computer Science for Utah Grant Program created in Section 63N-1b-305;
- (3) provides guidance for local education agencies in implementing computer science education opportunities for students in high school, middle school, and elementary school;
- (4) integrates recommendations and best practices from private and public entities that are seeking to improve and expand the opportunities for computer science education, including the Expanding Computer Education Pathways Alliance; and
- (5) makes recommendations to assist a local education agency in creating a local education agency computer science plan described in Subsection 63N-1b-305(7), including:
 - (a) providing recommendations regarding course offerings in computer science;
 - (b) providing recommendations regarding professional development opportunities in computer science for licensed teachers;
 - (c) providing recommendations regarding curriculum software for computer science courses;
 - (d) providing recommendations regarding assessment solutions to measure the learning outcomes of students in computer science courses; and
 - (e) providing information regarding how a local education agency can receive technical support from the talent subcommittee in providing computer science education opportunities for students.

Renumbered and Amended by Chapter 282, 2021 General Session

63N-1b-305 Computer Science for Utah Grant Program.

- (1) As used in this section, "grant program" means the Computer Science for Utah Grant Program created in Subsection (2).
- (2) The Computer Science for Utah Grant Program is created to provide grants to eligible local education agencies for improving computer science learning outcomes and course offerings as demonstrated by:
 - (a) the creation and implementation of a local education agency computer science plan as described in Subsection (7); and
 - (b) the effective implementation of approved courses and the provision of effective training opportunities for licensed teachers.
- (3) Subject to appropriations from the Legislature, and subject to the approval of the talent subcommittee, the state board shall distribute to local education agencies money appropriated for the grant program in accordance with this section.
- (4) The state board shall:

- (a) solicit applications from local education agency boards to receive grant money under the grant program;
 - (b) make recommendations to the talent subcommittee regarding the awarding of grant money to a local education agency board on behalf of a local education agency based on the criteria described in Subsection (6); and
 - (c) obtain final approval from the talent subcommittee before awarding grant money.
- (5) In administering the Computer Science for Utah Grant Program, the state board and the office, in consultation with the talent subcommittee, may make rules, in accordance with this part and Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:
- (a) describe the form and deadlines for a grant application by a local education agency under this section; and
 - (b) describe the reporting requirements required by a local education agency after receiving a grant under this section.
- (6) In awarding a grant under Subsection (3), the state board shall consider the effectiveness of the local education agency in creating and implementing a local education agency computer science plan as described in Subsection (7).
- (7) Each local education agency that seeks a grant as described in this section shall submit a written computer science plan, in a form approved by the state board and the talent subcommittee, that:
- (a) covers at least four years;
 - (b) addresses the recommendations of the talent subcommittee's computer science education master plan described in Section 63N-1b-304;
 - (c) identifies targets for improved computer science offerings, student learning, and licensed teacher training;
 - (d) describes a computer science professional development program and other opportunities for high quality professional learning for licensed teachers or individuals training to become licensed teachers;
 - (e) provides a detailed budget, communications, and reporting structure for implementing the computer science plan;
 - (f) commits to provide one computer science course offering, approved by the talent subcommittee, in every middle and high school within the local education agency;
 - (g) commits to integrate computer science education into the curriculum of each elementary school within the local education agency; and
 - (h) includes any other requirement established by the state board or the office by rule, in consultation with the talent subcommittee, in accordance with this part and Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (8) Each local education agency that receives a grant as described in this section shall provide an annual written assessment to the state board and the talent subcommittee for each year that the local education agency receives a grant or expends grant money that includes:
- (a) how the grant money was used;
 - (b) any improvements in the number and quality of computer science offerings provided by the local education agency and any increase in the number of licensed teachers providing computer science teaching to students;
 - (c) any difficulties encountered during implementation of the local education agency's written computer science plan and steps that will be taken to address the difficulties; and
 - (d) any other requirement established by the state board or the office by rule, in consultation with the talent subcommittee, in accordance with this part and Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

- (9)
 - (a) The state board and the talent subcommittee shall review each annual written assessment described in Subsection (8).
 - (b) As a result of the review described in Subsection (9)(a):
 - (i) the state board or the talent subcommittee may provide recommendations to improve the progress of the local education agency in meeting the objectives of the written computer science plan;
 - (ii) the state board may determine not to renew or extend a grant under this section; or
 - (iii) the state board or the talent subcommittee may take other action to assist the local education agency.

Renumbered and Amended by Chapter 282, 2021 General Session

63N-1b-306 Apprenticeships and work-based learning.

- (1) The talent program in collaboration with the talent subcommittee may partner with one or more of the following to facilitate and encourage apprenticeship opportunities and work-based learning opportunities for Utah students:
 - (a) the state board;
 - (b) the Utah system of higher education; and
 - (c) a participating employer in the state.
- (2) Subject to appropriations from the Legislature and in accordance with the proposal process and other provisions of this section, the talent subcommittee, with the concurrence of the executive director, may provide funding for approved apprenticeship opportunities and work-based learning opportunities.
- (3) To receive funding under this section, an entity described in Subsection (1) seeking to partner with the talent program shall submit a proposal through the talent program, in a form approved by the talent program and in accordance with deadlines determined by the talent program, that contains the following elements:
 - (a) the proposal shall include:
 - (i) a description of the proposed apprenticeship program or work-based learning program that demonstrates the program will be:
 - (A) responsive to the workforce needs of a high demand industry or occupation; and
 - (B) a partnership between at least one participating employer and at least one public high school, technical college, or institution of higher education;
 - (ii) an estimate of:
 - (A) student enrollment in the program;
 - (B) what school credit, credentials, certifications, or other workforce attainments will be provided by the program; and
 - (C) job-placement rates for students who complete the program;
 - (iii) a description of any financial contributions or in-kind contributions that will be provided by each participating employer in the program;
 - (iv) if the program would require state board approval under the provisions of Section 53B-16-102, evidence that the state board has approved the program; and
 - (v) the amount of funding requested for the program, including justification for the funding; and
 - (b) while not required, a preference may be given to a proposal that includes:
 - (i) a description of a stackable credentialing pathway for participating students that will be created by the program between at least two of the following:
 - (A) a public high school;

- (B) a technical college; and
 - (C) an institution of higher education; or
 - (ii) the potential for participating students to obtain full-time employment with the participating employer upon completion of the program.
- (4) The talent subcommittee shall review and prioritize each proposal received and determine whether the proposal should be funded, using the following criteria:
- (a) the quality and completeness of the elements of the proposal described in Subsection (3)(a);
 - (b) the quality of the optional elements of the proposal described in Subsection (3)(b);
 - (c) to what extent the proposal would expand the capacity to meet state or regional workforce needs; and
 - (d) other relevant criteria as determined by the talent subcommittee.
- (5) A partnership that receives funding under this section:
- (a) shall use the money to accomplish the proposed apprenticeship program or work-based learning program;
 - (b) may use the money to offset a participating employer's direct operational costs associated with employing students as part of an approved apprenticeship program or work-based learning program;
 - (c) except as provided in Subsection (5)(d), may not use the money for educational administration; and
 - (d) may use the money to support one full-time employee within a career and technical education region if:
 - (i) each participating local education agency, public high school, technical college, and institution of higher education agree on which entity will house the full-time employee;
 - (ii) the full-time employee spends all of the employee's time working exclusively to develop apprentice programs or work-based learning programs; and
 - (iii) the full-time employee is responsible for regular reporting to and receiving training from the director of the talent program.
- (6) The talent program shall be responsible for the administration of apprenticeship programs and work-based learning programs described in this section, including:
- (a) working with and providing technical assistance to the participating partners that establish apprentice programs and work-based learning programs and that receive funding under the provisions of this section;
 - (b) establishing reporting requirements for participating partners that establish apprentice programs and work-based learning programs and that receive funding under the provisions of this section;
 - (c) providing outreach and marketing to encourage more employers to participate; and
 - (d) annually providing information to the office regarding the activities, successes, and challenges of the center related to administering apprentice programs and work-based learning programs for inclusion in the office's annual written report described in Section 63N-1a-306, including:
 - (i) specific entities that received funding under this section;
 - (ii) the amount of funding provided to each entity; and
 - (iii) the number of participating students in each apprentice program and work-based learning program.
- (7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and the provisions of this section, the talent program may make rules regarding:
- (a) the method and deadlines for applying for funding under this section;
 - (b) the distribution of funding under this section; and
 - (c) the reporting requirements of each entity receiving funding under this section.

Renumbered and Amended by Chapter 282, 2021 General Session

63N-1b-307 Utah Works Program.

- (1) There is created the Utah Works Program.
- (2) The program, under the direction of the talent subcommittee, shall coordinate and partner with the entities described below to develop short-term pre-employment training and short-term early employment training for student and workforce participants that meet the needs of businesses that are creating jobs and economic growth in the state by:
 - (a) partnering with the office, the Department of Workforce Services, and the Utah system of higher education;
 - (b) partnering with businesses that have significant hiring demands for primarily newly created jobs in the state;
 - (c) coordinating with the Department of Workforce Services, education agencies, and employers to create effective recruitment initiatives to attract student and workforce participants and business participants to the program;
 - (d) coordinating with the Utah system of higher education to develop educational and training resources to provide student participants in the program qualifications to be hired by business participants in the program; and
 - (e) coordinating with the State Board of Education and local education agencies when appropriate to develop educational and training resources to provide student participants in the program qualifications to be hired by business participants in the program.
- (3)
 - (a) Subject to appropriation, the office, in consultation with the talent subcommittee, may respond to the COVID-19 pandemic by directing financial grants to institutions of higher education described in Section 53B-2-101 to offer short-term programs to:
 - (i) provide training to furloughed, laid off, dislocated, underserved, or other populations affected by COVID-19 to fill employment gaps in the state;
 - (ii) provide training and education related to industry needs; and
 - (iii) provide students with certificates or other recognition after completion of training.
 - (b) The office shall include the following information in the annual written report described in Section 63N-1-301:
 - (i) the process by which the office determines which institutions of higher education shall receive financial grants; and
 - (ii) the formula for awarding financial grants.
 - (c) An institution of higher education that receives grant funds under this Subsection (3):
 - (i) may use grant funds for:
 - (A) costs associated with developing a new program; or
 - (B) costs associated with expanding an existing program; and
 - (ii) shall demonstrate industry needs and opportunities for partnership with industry.
 - (d) The office shall award grant funds on a rolling basis, until the earlier of funds being exhausted or June 30, 2022.
 - (e) The office shall conduct outreach, including education about career guidance, training, and workforce programs, to the targeted populations.
- (4) The office, in consultation with the talent subcommittee, may, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and in accordance with the provisions of this section, make rules regarding the development and administration of the Utah Works Program.

- (5) The Utah Works Program shall report the following metrics to the office for inclusion in the office's annual report described in Section 63N-1a-306:
- (a) the number of participants in the program;
 - (b) how program participants learned about or were referred to the program, including the number of participants who learned about or were referred to the program by:
 - (i) the Department of Workforce Services;
 - (ii) marketing efforts of the office or talent subcommittee;
 - (iii) a school counselor; and
 - (iv) other methods;
 - (c) the number of participants who have completed training offered by the program; and
 - (d) the number of participants who have been hired by a business participating in the program.

Amended by Chapter 4, 2021 Special Session 1

Chapter 2

Tax Credit Incentives for Economic Development

Part 1

Economic Development Tax Increment Financing

63N-2-101 Title.

- (1) This chapter is known as "Tax Credit Incentives for Economic Development."
- (2) This part is known as "Economic Development Tax Increment Financing."

Renumbered and Amended by Chapter 283, 2015 General Session

63N-2-102 Purpose.

This part is enacted to:

- (1) foster and develop industry in the state, to provide additional employment opportunities for Utah's citizens, and to improve the state's economy;
- (2) address the loss of prospective high paying jobs, the loss of new economic growth, and the corresponding loss of incremental new state and local revenues to competing states caused by economic incentives offered by those states;
- (3) provide tax credits to attract new commercial projects and new jobs in economic development zones in the state; and
- (4) provide a cooperative and unified working relationship between state and local economic development efforts.

Renumbered and Amended by Chapter 283, 2015 General Session

Amended by Chapter 344, 2015 General Session

63N-2-103 Definitions.

As used in this part:

- (1) "Authority" means:
 - (a) the Utah Inland Port Authority, created in Section 11-58-201; or

- (b) the Military Installation Development Authority, created in Section 63H-1-201.
- (2) "Authority project area" means a project area of:
 - (a) the Utah Inland Port Authority, created in Section 11-58-201; or
 - (b) the Military Installation Development Authority, created in Section 63H-1-201.
- (3)
 - (a) "Business entity" means a person that enters into an agreement with the office to initiate a new commercial project in Utah that will qualify the person to receive a tax credit under Section 59-7-614.2 or 59-10-1107.
 - (b) With respect to a tax credit authorized by the office in accordance with Subsection 63N-2-104(3)(c)(ii), "business entity" includes a nonprofit entity.
- (4) "Community reinvestment agency" has the same meaning as that term is defined in Section 17C-1-102.
- (5) "Development zone" means an economic development zone created under Section 63N-2-104.
- (6) "Local government entity" means a county, city, town, or authority that enters into an agreement with the office to have a new commercial project that:
 - (a) is located within:
 - (i) the boundary of the county, city, or town; or
 - (ii) an authority project area; and
 - (b) qualifies the county, city, town, or authority to receive a tax credit under Section 59-7-614.2.
- (7)
 - (a) "New commercial project" means an economic development opportunity that:
 - (i) involves new or expanded industrial, manufacturing, distribution, or business services in the state; and
 - (ii) advances the statewide economic development strategy.
 - (b) "New commercial project" includes an economic development opportunity that involves new or expanded agricultural or mining business services in Utah if the new commercial project is located within a:
 - (i) county of the third, fourth, fifth, or sixth class; or
 - (ii) municipality that has a population of 10,000 or less and the municipality is in a county of the second class.
 - (c) "New commercial project" does not include retail business.
- (8) "Significant capital investment" means an investment in capital or fixed assets in the following amounts, which may include real property, personal property, and other fixtures related to a new commercial project that represents an expansion of existing operations in the state or that increases the business entity's existing workforce in the state:
 - (a) except as described in Subsection (8)(b), an amount of at least \$10,000,000 for a new commercial project located within the boundary of a county of the first or second class;
 - (b) an amount of at least \$500,000 for a new commercial project located within the boundary of a county of the third or fourth class, or located within a municipality in a county of the second class and where the municipality has a population of 10,000 or less;
 - (c) an amount of at least \$250,000 for a new commercial project located within the boundary of a county of the fifth or sixth class; or
 - (d) an amount determined by rule made by the office in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (9) "Tax credit" means an economic development tax credit created by Section 59-7-614.2 or 59-10-1107.
- (10) "Tax credit amount" means the amount the office lists as a tax credit on a tax credit certificate for a taxable year.

- (11) "Tax credit certificate" means a certificate issued by the office that:
- (a) lists the name of the business entity, local government entity, or community development and renewal agency to which the office authorizes a tax credit;
 - (b) lists the business entity's, local government entity's, or community development and renewal agency's taxpayer identification number;
 - (c) lists the amount of tax credit that the office authorizes the business entity, local government entity, or community development and renewal agency for the taxable year; and
 - (d) may include other information as determined by the office.

Amended by Chapter 282, 2021 General Session

Amended by Chapter 381, 2021 General Session

63N-2-104 Creation of economic development zones -- Tax credits -- Assignment of tax credit.

- (1) The office may create an economic development zone in the state if the following requirements are satisfied:
- (a) the area is zoned agricultural, commercial, industrial, manufacturing, business park, research park, or other appropriate business related use in a community-approved master plan that contemplates future growth;
 - (b) the request to create a development zone has first been approved by an appropriate local government entity; and
 - (c) local incentives have been or will be committed to be provided within the area in accordance with the community's approved incentive policy and application process.
- (2)
- (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office shall make rules establishing the requirements for a business entity or local government entity to qualify for a tax credit for a new commercial project in a development zone under this part.
 - (b) The office shall ensure that the requirements described in Subsection (2)(a) include the following:
 - (i) the new commercial project is within the development zone;
 - (ii) the new commercial project includes direct investment within the geographic boundaries of the development zone;
 - (iii) the new commercial project brings new incremental jobs to Utah;
 - (iv) the new commercial project includes the creation of high paying jobs in the state, significant capital investment in the state, or significant purchases from vendors, contractors, or service providers in the state, or a combination of these three economic factors;
 - (v) the new commercial project generates new state revenues;
 - (vi) a business entity, a local government entity, or a community reinvestment agency to which a local government entity assigns a tax credit under this section meets the requirements of Section 63N-2-105; and
 - (vii) unless otherwise advisable in light of economic circumstances, the new commercial project relates to the industry clusters identified by the commission under Section 63N-1a-202.
- (3)
- (a) The office, after consultation with the GO Utah board, may enter into a written agreement with a business entity or local government entity authorizing a tax credit to the business entity or local government entity if the business entity or local government entity meets the requirements described in this section.
 - (b)

- (i) With respect to a new commercial project, the office may authorize a tax credit to a business entity or a local government entity, but not both.
 - (ii) In determining whether to authorize a tax credit with respect to a new commercial project to a business entity or a local government entity, the office shall authorize the tax credit in a manner that the office determines will result in providing the most effective incentive for the new commercial project.
- (c)
- (i) Except as provided in Subsection (3)(c)(ii)(A), for a new commercial project that is located within the boundary of a county of the first or second class, the office may not authorize or commit to authorize a tax credit that exceeds:
 - (A) 50% of the new state revenues from the new commercial project in any given year; or
 - (B) 30% of the new state revenues from the new commercial project over the lesser of the life of a new commercial project or 20 years.
 - (ii) If the office authorizes or commits to authorize a tax credit for a new commercial project located within the boundary of:
 - (A) a municipality with a population of 10,000 or less located within a county of the second class and that is experiencing economic hardship as determined by the office, the office shall authorize a tax credit of up to 50% of new state revenues from the new commercial project over the lesser of the life of the new commercial project or 20 years;
 - (B) a county of the third class, the office shall authorize a tax credit of up to 50% of new state revenues from the new commercial project over the lesser of the life of the new commercial project or 20 years; and
 - (C) a county of the fourth, fifth, or sixth class, the office shall authorize a tax credit of 50% of new state revenues from the new commercial project over the lesser of the life of the new commercial project or 20 years.
 - (iii) Notwithstanding any other provisions of this section, the office may not authorize a tax credit under this section for a new commercial project:
 - (A) to a business entity that has claimed a High Cost Infrastructure Development Tax Credit described in Section 79-6-603 related to the same new commercial project; or
 - (B) in an amount more than the amount of the capital investment in the new commercial project.
- (d)
- (i) A local government entity may by resolution assign a tax credit authorized by the office to a community reinvestment agency.
 - (ii) The local government entity shall provide a copy of the resolution described in Subsection (3)(d)(i) to the office.
 - (iii) If a local government entity assigns a tax credit to a community reinvestment agency, the written agreement described in Subsection (3)(a) shall:
 - (A) be between the office, the local government entity, and the community reinvestment agency;
 - (B) establish the obligations of the local government entity and the community reinvestment agency; and
 - (C) establish the extent to which any of the local government entity's obligations are transferred to the community reinvestment agency.
 - (iv) If a local government entity assigns a tax credit to a community reinvestment agency:
 - (A) the community reinvestment agency shall retain records as described in Subsection (4)(d); and

- (B) a tax credit certificate issued in accordance with Section 63N-2-105 shall list the community reinvestment agency as the named applicant.
- (4) The office shall ensure that the written agreement described in Subsection (3):
- (a) specifies the requirements that the business entity or local government entity shall meet to qualify for a tax credit under this part;
 - (b) specifies the maximum amount of tax credit that the business entity or local government entity may be authorized for a taxable year and over the life of the new commercial project;
 - (c) establishes the length of time the business entity or local government entity may claim a tax credit;
 - (d) requires the business entity or local government entity to retain records supporting a claim for a tax credit for at least four years after the business entity or local government entity claims a tax credit under this part; and
 - (e) requires the business entity or local government entity to submit to audits for verification of the tax credit claimed.
- (5) The office may attribute an incremental job or a high paying job to a new commercial project regardless of whether the job is performed in person, within the development zone or remotely from elsewhere in the state.

Amended by Chapter 282, 2021 General Session

Amended by Chapter 381, 2021 General Session

63N-2-105 Qualifications for tax credit -- Procedure.

- (1) The office shall certify a business entity's or local government entity's eligibility for a tax credit as provided in this part.
- (2) A business entity or local government entity seeking to receive a tax credit as provided in this part shall provide the office with:
- (a) an application for a tax credit certificate, including a certification, by an officer of the business entity, of any signature on the application;
 - (b)
 - (i) for a business entity, documentation of the new state revenues from the business entity's new commercial project that were paid during a calendar year; or
 - (ii) for a local government entity, documentation of the new state revenues from the new commercial project within the area of the local government entity that were paid during a calendar year;
 - (c) known or expected detriments to the state or existing businesses in the state;
 - (d) if a local government entity seeks to assign the tax credit to a community reinvestment agency as described in Section 63N-2-104, a statement providing the name and taxpayer identification number of the community reinvestment agency to which the local government entity seeks to assign the tax credit;
 - (e)
 - (i) with respect to a business entity that seeks to claim a tax credit:
 - (A) a document that expressly directs and authorizes the State Tax Commission to disclose to the office the business entity's returns and other information that would otherwise be subject to confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code; and
 - (B) a document that expressly directs and authorizes the Department of Workforce Services to disclose to the office the business entity's unemployment insurance contribution reports that would otherwise be subject to confidentiality under Section 35A-4-312;

- (ii) with respect to a local government entity that seeks to claim the tax credit:
 - (A) a document that expressly directs and authorizes the State Tax Commission to disclose to the office the local government entity's returns and other information that would otherwise be subject to confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code; and
 - (B) if the new state revenues collected as a result of a new commercial project are attributable in whole or in part to a new or expanded industrial, manufacturing mining, agricultural, distribution, or business service within a new commercial project within the area of the local government entity, a document signed by an authorized representative of the new or expanded industrial, manufacturing, mining, agricultural, distribution, or business service that:
 - (I) expressly directs and authorizes the State Tax Commission to disclose to the office the returns of the new or expanded industrial, manufacturing, distribution, or business service and other information that would otherwise be subject to confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code; and
 - (II) lists the taxpayer identification number of the new or expanded industrial, manufacturing, mining, agricultural, distribution, or business service; or
- (iii) with respect to a local government entity that seeks to assign the tax credit to a community reinvestment agency:
 - (A) a document signed by the members of the governing body of the community reinvestment agency that expressly directs and authorizes the State Tax Commission to disclose to the office the returns of the community reinvestment agency and other information that would otherwise be subject to confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code; and
 - (B) if the new state revenues collected as a result of a new commercial project are attributable in whole or in part to a new or expanded industrial, manufacturing, mining, agricultural, distribution, or business service within a new commercial project within the community reinvestment agency, a document signed by an authorized representative of the new or expanded industrial, manufacturing, mining, agricultural, distribution, or business service that:
 - (I) expressly directs and authorizes the State Tax Commission to disclose to the office the returns of the new or expanded industrial, manufacturing, mining, agricultural, distribution, or business service and other information that would otherwise be subject to confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code; and
 - (II) lists the taxpayer identification number of the new or expanded industrial, manufacturing, mining, agricultural, distribution, or business service; and
- (f) for a business entity only, documentation that the business entity has satisfied the performance benchmarks outlined in the written agreement described in Subsection 63N-2-104(3)(a), and as defined by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, including the creation of new:
 - (i) incremental jobs;
 - (ii) high paying jobs; and
 - (iii) state revenue.
- (3)
 - (a) The office shall submit the documents described in Subsection (2)(e) to the State Tax Commission.
 - (b) Upon receipt of a document described in Subsection (2)(e), the State Tax Commission shall provide the office with the returns and other information requested by the office that the

State Tax Commission is directed or authorized to provide to the office in accordance with Subsection (2)(e).

- (4) If, with respect to an agreement described in Subsection 63N-2-104(3)(a) between the office and a business entity, the office identifies one of the following events, the office and the business entity shall amend or the office may terminate the agreement:
 - (a) a change in the business entity's organization resulting from a merger with or acquisition of another entity located in the state;
 - (b) a material increase in the business entity's retail operations that results in new state revenue not subject to the incentive; or
 - (c) an increase in the business entity's operations that:
 - (i) is outside the scope of the agreement or outside the boundaries of a development zone; and
 - (ii) results in new state revenue not subject to the incentive.
- (5) If, after review of the returns and other information provided by the State Tax Commission, or after review of the ongoing performance of the business entity or local government entity, the office determines that the returns and other information are inadequate to provide a reasonable justification for authorizing or continuing a tax credit, the office shall:
 - (a)
 - (i) deny the tax credit; or
 - (ii) terminate the agreement described in Subsection 63N-2-104(3)(a) for failure to meet the performance standards established in the agreement; or
 - (b) inform the business entity or local government entity that the returns or other information were inadequate and ask the business entity or local government entity to submit new documentation.
- (6) If after review of the returns and other information provided by the State Tax Commission, the office determines that the returns and other information provided by the business entity or local government entity provide reasonable justification for authorizing a tax credit, the office shall, based upon the returns and other information:
 - (a) determine the amount of the tax credit to be granted to the business entity, local government entity, or if the local government entity assigns the tax credit as described in Section 63N-2-104, to the community reinvestment agency to which the local government entity assigns the tax credit;
 - (b) issue a tax credit certificate to the business entity, local government entity, or if the local government entity assigns the tax credit as described in Section 63N-2-104, to the community reinvestment agency to which the local government entity assigns the tax credit; and
 - (c) provide a digital record of the tax credit certificate to the State Tax Commission.
- (7)
 - (a) For purposes of determining the amount of a business entity's tax credit in accordance with this section, the office may establish by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, a process by which the office closely approximates the amount of taxes the business entity paid under Title 59, Chapter 12, Sales and Use Tax Act, for a capital project.
 - (b) The office may apply a process described in Subsection (7)(a) to a business entity only with respect to a new agreement described in Subsection 63N-2-104(3)(a) that takes effect on or after January 1, 2022.
- (8) A business entity, local government entity, or community reinvestment agency may not claim a tax credit unless the business entity, local government entity, or community reinvestment agency has a tax credit certificate issued by the office.
- (9)

- (a) A business entity, local government entity, or community reinvestment agency may claim a tax credit in the amount listed on the tax credit certificate on its tax return.
- (b) A business entity, local government entity, or community reinvestment agency that claims a tax credit under this section shall retain the tax credit certificate in accordance with Section 59-7-614.2 or 59-10-1107.

Amended by Chapter 282, 2021 General Session

Amended by Chapter 381, 2021 General Session

63N-2-106 Reports -- Posting monthly and annual reports -- Audit and study of tax credits.

- (1) The office shall include the following information in the annual written report described in Section 63N-1a-306:
 - (a) the office's success in attracting new commercial projects to development zones under this part and the corresponding increase in new incremental jobs;
 - (b) how many new incremental jobs and high paying jobs are employees of a company that received tax credits under this part, including the number of employees who work for a third-party rather than directly for a company, receiving the tax credits under this part;
 - (c) the estimated amount of tax credit commitments made by the office and the period of time over which tax credits will be paid;
 - (d) the economic impact on the state from new state revenues and the provision of tax credits under this part;
 - (e) the estimated costs and economic benefits of the tax credit commitments made by the office;
 - (f) the actual costs and economic benefits of the tax credit commitments made by the office; and
 - (g) tax credit commitments made by the office, with the associated calculation.
- (2) Each month, the office shall post on its website and on a state website:
 - (a) the new tax credit commitments made by the office during the previous month; and
 - (b) the estimated costs and economic benefits of those tax credit commitments.
- (3)
 - (a) On or before November 1, 2014, and every three years after November 1, 2014, the office shall:
 - (i) conduct an audit of the tax credits allowed under Section 63N-2-105;
 - (ii) study the tax credits allowed under Section 63N-2-105; and
 - (iii) make recommendations concerning whether the tax credits should be continued, modified, or repealed.
 - (b) The audit shall include an evaluation of:
 - (i) the cost of the tax credits;
 - (ii) the purposes and effectiveness of the tax credits;
 - (iii) the extent to which the state benefits from the tax credits; and
 - (iv) the state's return on investment under this part measured by new state revenues, compared with the costs of tax credits provided and GOED's expenses in administering this part.
 - (c) The office shall provide the results of the audit described in this Subsection (3):
 - (i) in the written annual report described in Subsection (1); and
 - (ii) as part of the reviews described in Sections 59-7-159 and 59-10-137.

Amended by Chapter 282, 2021 General Session

63N-2-107 Reports of new state revenues, partial rebates, and tax credits.

- (1) Before October 1 of each year, the office shall submit a report to the Governor's Office of Planning and Budget, the Office of the Legislative Fiscal Analyst, and the Division of Finance identifying:
 - (a)
 - (i) the total estimated amount of new state revenues created from new commercial projects in development zones;
 - (ii) the estimated amount of new state revenues from new commercial projects in development zones that will be generated from:
 - (A) sales tax;
 - (B) income tax; and
 - (C) corporate franchise and income tax; and
 - (iii) the minimum number of new incremental jobs and high paying jobs that will be created before any tax credit is awarded; and
 - (b) the total estimated amount of tax credits that the office projects that business entities, local government entities, or community reinvestment agencies will qualify to claim under this part.
- (2) By the first business day of each month, the office shall submit a report to the Governor's Office of Planning and Budget, the Office of the Legislative Fiscal Analyst, and the Division of Finance identifying:
 - (a) each new agreement entered into by the office since the last report;
 - (b) the estimated amount of new state revenues that will be generated under each agreement;
 - (c) the estimated maximum amount of tax credits that a business entity, local government entity, or community reinvestment agency could qualify for under each agreement; and
 - (d) the minimum number of new incremental jobs and high paying jobs that will be created before any tax credit is awarded.
- (3) At the reasonable request of the Governor's Office of Planning and Budget, the Office of the Legislative Fiscal Analyst, or the Division of Finance, the office shall provide additional information about the tax credit, new incremental jobs and high paying jobs, costs, and economic benefits related to this part, if the information is part of a public record as defined in Section 63G-2-103.
- (4) By June 30, the office shall submit to the Economic Development and Workforce Services Interim Committee, the Business, Economic Development, and Labor Appropriations Subcommittee, and the governor, a written report that provides an overview of the implementation and efficacy of the statewide economic development strategy, including an analysis of the extent to which the office's programs are aligned with the prevailing economic conditions expected in the next fiscal year.

Amended by Chapter 282, 2021 General Session

Amended by Chapter 382, 2021 General Session

63N-2-108 Expenditure of amounts received by a local government entity or community reinvestment agency as a tax credit -- Commingling of tax credit amounts with certain other amounts.

- (1) Subject to Subsections (2) and (3), a local government entity or community reinvestment agency may expend amounts the local government entity or community reinvestment agency receives as a tax credit under Section 59-7-614.2:
 - (a) for infrastructure, including real property or personal property, if that infrastructure is related to the new commercial project with respect to which the local government entity or community reinvestment agency claims the tax credit under Section 59-7-614.2; or

- (b) for another economic development purpose related to the new commercial project with respect to which the local government entity or community reinvestment agency claims the tax credit under Section 59-7-614.2.
- (2) A local government entity may:
 - (a) commingle amounts the local government entity receives as a tax credit under Section 59-7-614.2 with amounts the local government entity receives under Title 63N, Chapter 3, Part 1, Industrial Assistance Account; and
 - (b) expend the commingled amounts described in Subsection (2)(a) for a purpose described in Title 63N, Chapter 3, Part 1, Industrial Assistance Account, if that purpose is related to the new commercial project with respect to which the local government entity claims the tax credit under Section 59-7-614.2.
- (3) A community reinvestment agency may:
 - (a) commingle amounts the community reinvestment agency receives as a tax credit under Section 59-7-614.2 with amounts the community reinvestment agency receives under Title 17C, Chapter 1, Part 4, Project Area Funds; and
 - (b) expend the commingled amounts described in Subsection (3)(a) for a purpose described in Title 17C, Chapter 1, Part 4, Project Area Funds, if that purpose is related to the new commercial project with respect to which the community reinvestment agency claims the tax credit under Section 59-7-614.2.

Amended by Chapter 350, 2016 General Session

63N-2-109 Payment of partial rebates.

- (1) As used in this section:
 - (a) "Account" means the Economic Incentive Restricted Account created in Subsection (2).
 - (b) "Partial rebate" means an agreement between the office and a business entity under which the state agrees to pay back to the business entity a portion of new state revenue generated by a business entity's new commercial project.
- (2)
 - (a) There is created a restricted account in the General Fund known as the Economic Incentive Restricted Account.
 - (b) The account shall consist of money transferred into the account by the Division of Finance from the General Fund as provided in this section.
 - (c) The Division of Finance shall make payments from the account as required by this section.
- (3) The Division of Finance shall make partial rebate payments due under an agreement initially entered into by the office before May 5, 2008, as provided in this section.
- (4)
 - (a) Each business entity seeking a partial rebate shall follow the procedures and requirements of this Subsection (4) to obtain a partial rebate.
 - (b) Within 90 days of the end of each calendar year, a business entity seeking a partial rebate shall:
 - (i) provide the office with documentation of the new state revenue that the business entity generated during the preceding calendar year;
 - (ii) provide the office with a document that expressly directs and authorizes the State Tax Commission to disclose to the office the business entity's returns and other information that would otherwise be subject to confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code; and
 - (iii) ensure that the documentation includes:

- (A) the types of taxes and corresponding amounts of taxes paid directly to the State Tax Commission; and
- (B) the sales taxes paid to Utah vendors and suppliers that were indirectly paid to the State Tax Commission.
- (c) The office shall:
 - (i) audit or review the documentation for accuracy;
 - (ii) based on the office's analysis of the documentation, determine the amount of a partial rebate that the business entity earned under the agreement; and
 - (iii) submit to the Division of Finance:
 - (A) a request for payment of a partial rebate to the business entity;
 - (B) the name and address of the payee; and
 - (C) any other information requested by the Division of Finance.
- (5) Upon receipt of a request for payment of a partial rebate from the office, the Division of Finance shall:
 - (a) transfer from the General Fund to the restricted account the amount contained in the request for payment of a partial rebate after reducing the amount transferred by any unencumbered balances in the restricted account; and
 - (b) notwithstanding Subsections 51-5-3(23)(b) and 63J-1-104(3)(c), after receiving a request for payment of a partial rebate and making the transfer required by Subsection (5)(a), pay the partial rebate from the account.

Enacted by Chapter 190, 2016 General Session

Part 2

Enterprise Zone Act

63N-2-201 Title.

This part is known as the "Enterprise Zone Act."

Renumbered and Amended by Chapter 283, 2015 General Session

63N-2-202 Definitions.

As used in this part:

- (1) "Business entity" means an entity, sole proprietorship, or individual:
 - (a) including a claimant, estate, or trust; and
 - (b) under which or by whom business is conducted or transacted.
- (2) "Claimant" means a resident or nonresident person that has:
 - (a) Utah taxable income as defined in Section 59-7-101; or
 - (b) state taxable income under Title 59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and Information.
- (3) "County applicant" means the governing authority of a county that meets the requirements for designation as an enterprise zone under Section 63N-2-204.
- (4) "Estate" means a nonresident estate or a resident estate that has state taxable income under Title 59, Chapter 10, Part 2, Trusts and Estates.
- (5) "Municipal applicant" means the governing authority of a city or town that meets the requirements for designation as an enterprise zone under Section 63N-2-204.

- (6) "Nonrefundable tax credit" or "tax credit" means a tax credit that a business entity may:
- (a) claim:
 - (i) as provided by statute; and
 - (ii) in an amount that does not exceed the business entity's tax liability for a taxable year under:
 - (A) Title 59, Chapter 7, Corporate Franchise and Income Taxes; or
 - (B) Title 59, Chapter 10, Individual Income Tax Act; and
 - (b) carry forward or carry back:
 - (i) if allowed by statute; and
 - (ii) to the extent that the amount of the tax credit exceeds the business entity's tax liability for a taxable year under:
 - (A) Title 59, Chapter 7, Corporate Franchise and Income Taxes; or
 - (B) Title 59, Chapter 10, Individual Income Tax Act.
- (7) "Tax incentives" or "tax benefits" means the nonrefundable tax credits described in Section 63N-2-213.
- (8) "Trust" means a nonresident trust or a resident trust that has state taxable income under Title 59, Chapter 10, Part 2, Trusts and Estates.

Amended by Chapter 465, 2019 General Session

63N-2-203 Powers of the office.

The office shall:

- (1) monitor the implementation and operation of this part and conduct a continuing evaluation of the progress made in the enterprise zones;
- (2) evaluate an application for designation as an enterprise zone from a county applicant or a municipal applicant and determine if the applicant qualifies for that designation;
- (3) provide technical assistance to county applicants and municipal applicants in developing applications for designation as enterprise zones;
- (4) assist county applicants and municipal applicants designated as enterprise zones in obtaining assistance from the federal government and agencies of the state;
- (5) assist a qualified business entity in obtaining the benefits of an incentive or inducement program authorized by this part; and
- (6) as part of the annual written report described in Section 63N-1a-306, prepare an annual evaluation that provides:
 - (a) based on data from the State Tax Commission, the total amount of tax credits claimed under this part;
 - (b) the total amount awarded in tax credits for each development zone;
 - (c) the number of new full-time employee positions reported to obtain tax credits in each development zone;
 - (d) the amount of tax credits awarded for rehabilitating a building in each development zone;
 - (e) the amount of tax credits awarded for investing in a plant, equipment, or other depreciable property in each development zone; and
 - (f) recommendations regarding the effectiveness of the program and any suggestions for legislation.

Amended by Chapter 282, 2021 General Session

63N-2-204 Criteria for designation of enterprise zones -- Application.

- (1) A county applicant seeking designation as an enterprise zone shall file an application with the office that, in addition to complying with the other requirements of this part:
 - (a) verifies that the county has a population of not more than 70,000; and
 - (b) provides clear evidence of the need for development in the county.
- (2) A municipal applicant seeking designation as an enterprise zone shall file an application with the office that, in addition to complying with other requirements of this part:
 - (a) verifies that the municipality has a population that does not exceed 20,000;
 - (b) verifies that the municipality is within a county that has a population of not more than 70,000; and
 - (c) provides clear evidence of the need for development in the municipality.
- (3) An application filed under Subsection (1) or (2) shall be in a form and in accordance with procedures approved by the office, and shall include the following information:
 - (a) a plan developed by the county applicant or municipal applicant that identifies local contributions meeting the requirements of Section 63N-2-205;
 - (b) the county applicant or municipal applicant has a development plan that outlines:
 - (i) the types of investment and development within the zone that the county applicant or municipal applicant expects to take place if the incentives specified in this part are provided;
 - (ii) the specific investment or development reasonably expected to take place;
 - (iii) any commitments obtained from businesses;
 - (iv) the projected number of jobs that will be created and the anticipated wage level of those jobs;
 - (v) any proposed emphasis on the type of jobs created, including any affirmative action plans; and
 - (vi) a copy of the county applicant's or municipal applicant's economic development plan to demonstrate coordination between the zone and overall county or municipal goals;
 - (c) the county applicant's or municipal applicant's proposed means of assessing the effectiveness of the development plan or other programs within the zone once they have been implemented within the zone;
 - (d) any additional information required by the office; and
 - (e) any additional information the county applicant or municipal applicant considers relevant to its designation as an enterprise zone.
- (4) On or after January 1, 2021, no new enterprise zones shall be designated.

Amended by Chapter 360, 2020 General Session

63N-2-205 Qualifying local contributions.

- (1) An area may be designated as an enterprise zone only if the county applicant or municipal applicant agrees to make a qualifying local contribution.
- (2) The qualifying local contribution may vary depending on available resources, and may include such elements as:
 - (a) simplified procedures for obtaining permits;
 - (b) dedication of available government grants;
 - (c) dedication of training funds;
 - (d) waiver of business license fees;
 - (e) infrastructure improvements;
 - (f) private contributions;
 - (g) utility rate concessions;
 - (h) small business incubator programs; or

- (i) management assistance programs.

Renumbered and Amended by Chapter 283, 2015 General Session

63N-2-206 Eligibility review.

- (1) The office shall:
 - (a) review and evaluate the applications submitted under Section 63N-2-204; and
 - (b) determine whether each county applicant or municipal applicant is eligible for designation as an enterprise zone.
- (2)
 - (a) The office shall designate enterprise zones.
 - (b) The office shall consider and evaluate an application using the following criteria:
 - (i) the pervasiveness of poverty, unemployment, and general distress in the proposed zone;
 - (ii) the extent of chronic abandonment, deterioration, or reduction in value of commercial, industrial, or residential structures in the proposed zone, and the extent of property tax arrearages in the proposed zone;
 - (iii) the potential for new investment and economic development in the proposed zone;
 - (iv) the county applicant's or municipal applicant's proposed use of other state and federal development funds or programs to increase the probability of new investment and development occurring;
 - (v) the extent to which the projected development in the zone will provide employment to residents of the county and particularly individuals who are unemployed or who are economically disadvantaged;
 - (vi) the degree to which the county applicant's or municipal applicant's application promotes innovative solutions to economic development problems and demonstrates local initiative; and
 - (vii) other relevant factors that the office specifies in its recommendation.

Renumbered and Amended by Chapter 283, 2015 General Session

63N-2-207 Quarterly consideration.

The office shall consider designating enterprise zones quarterly.

Renumbered and Amended by Chapter 283, 2015 General Session

63N-2-208 Duration of designation.

- (1) Each enterprise zone has a duration of five years.
- (2) On or after January 1, 2021, neither a municipality nor a county may reapply for an enterprise zone designation for an enterprise zone that has reached the end of the enterprise zone's five-year duration.

Amended by Chapter 360, 2020 General Session

63N-2-209 Contingent designations.

- (1) The office may accept applications for, and may at any time grant, a contingent designation of any county as an enterprise zone for purposes of seeking a designation of the county as a federally designated zone.

- (2) This designation does not entitle a business operating in that county to the tax incentives under this part.

Renumbered and Amended by Chapter 283, 2015 General Session

63N-2-210 Revocation of designations.

- (1) The office may revoke the designation of an enterprise zone if no businesses utilize the tax incentives during a calendar year.
- (2) Prior to that action, the office shall conduct a public hearing to determine reasons for inactivity and explore possible alternative actions.

Amended by Chapter 11, 2016 General Session

63N-2-211 Disqualifying transfers.

Except in a county of the first or second class, tax incentives provided by this part are not available to a business entity that closes or permanently curtails operations in another part of the state in connection with a transfer of any part of its business operations to an enterprise zone, if the closure or permanent curtailment is reasonably expected to diminish employment in that part of the state.

Amended by Chapter 11, 2016 General Session

63N-2-212 Business entities qualifying for tax incentives.

- (1) Except as otherwise provided in Subsection (2), the tax incentives described in this part are available only to a business entity for which at least 51% of the employees employed at facilities of the business entity located in the enterprise zone are individuals who, at the time of employment, reside in:
 - (a) the county in which the enterprise zone is located; or
 - (b) an enterprise zone that is immediately adjacent and contiguous to the county in which the enterprise zone is located.
- (2) Subsection (1) does not apply to a business entity that has no employees.

Renumbered and Amended by Chapter 283, 2015 General Session

63N-2-213 State tax credits.

- (1) The office shall certify a business entity's eligibility for a tax credit described in this section.
- (2) A business entity seeking to receive a tax credit as provided in this section shall provide the office with:
 - (a) an application for a tax credit certificate in a form approved by the office, including a certification, by an officer of the business entity, of a signature on the application; and
 - (b) documentation that demonstrates the business entity has met the requirements to receive the tax credit.
- (3) If, after review of an application and documentation provided by a business entity as described in Subsection (2), the office determines that the application and documentation are inadequate to provide a reasonable justification for authorizing the tax credit, the office shall:
 - (a) deny the tax credit; or
 - (b) inform the business entity that the application or documentation was inadequate and ask the business entity to submit additional documentation.

- (4) If, after review of an application and documentation provided by a business entity as described in Subsection (2), the office determines that the application and documentation provide reasonable justification for authorizing a tax credit, the office shall:
 - (a) determine the amount of the tax credit to be granted to the business entity;
 - (b) issue a tax credit certificate to the business entity; and
 - (c) provide a digital record of the tax credit certificate to the State Tax Commission.
- (5) A business entity may not claim a tax credit under this section unless the business entity has a tax credit certificate issued by the office.
- (6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office shall make rules describing:
 - (a) the form and content of an application for a tax credit under this section;
 - (b) the documentation requirements for a business entity to receive a tax credit certificate under this section; and
 - (c) administration of the program, including relevant timelines and deadlines.
- (7) Subject to the limitations of Subsections (8) through (10), and if the requirements of this part are met, the following nonrefundable tax credits against a tax under Title 59, Chapter 7, Corporate Franchise and Income Taxes, or Title 59, Chapter 10, Individual Income Tax Act, are applicable in an enterprise zone:
 - (a) a tax credit of \$750 may be claimed by a business entity for each new full-time employee position created within the enterprise zone;
 - (b) an additional \$500 tax credit may be claimed if the new full-time employee position created within the enterprise zone pays at least 125% of:
 - (i) the county average monthly nonagricultural payroll wage for the respective industry as determined by the Department of Workforce Services; or
 - (ii) if the county average monthly nonagricultural payroll wage is not available for the respective industry, the total average monthly nonagricultural payroll wage in the respective county where the enterprise zone is located;
 - (c) an additional tax credit of \$750 may be claimed if the new full-time employee position created within the enterprise zone is in a business entity that adds value to agricultural commodities through manufacturing or processing;
 - (d) an additional tax credit of \$200 may be claimed for each new full-time employee position created within the enterprise zone that is filled by an employee who is insured under an employer-sponsored health insurance program if the employer pays at least 50% of the premium cost for the year for which the credit is claimed;
 - (e) a tax credit of 25% of the first \$200,000 spent on rehabilitating a building in the enterprise zone that has been vacant for two years or more, including that the building has had or contained no occupants, tenants, furniture, or personal property for two years or more, in the time period immediately before the rehabilitation; and
 - (f) an annual investment tax credit may be claimed in an amount equal to 5% of the first \$750,000 qualifying investment in plant, equipment, or other depreciable property.
- (8)
 - (a) Subject to the limitations of Subsection (8)(b), a business entity claiming a tax credit under Subsections (7)(a) through (d) may claim the tax credit for no more than 30 full-time employee positions in a taxable year.
 - (b) A business entity that received a tax credit for one or more new full-time employee positions under Subsections (7)(a) through (d) in a prior taxable year may claim a tax credit for a new full-time employee position in a subsequent taxable year under Subsections (7)(a) through (d) if:

- (i) the business entity has created a new full-time position within the enterprise zone; and
 - (ii) the total number of employee positions at the business entity at any point during the tax year for which the tax credit is being claimed is greater than the highest number of employee positions that existed at the business entity in the previous taxable year.
- (c) Construction jobs are not eligible for the tax credits under Subsections (7)(a) through (d).
- (9) If the amount of a tax credit under this section exceeds a business entity's tax liability under this chapter for a taxable year, the business entity may carry forward the amount of the tax credit exceeding the liability for a period that does not exceed the next three taxable years.
- (10) Tax credits under Subsections (7)(a) through (f) may not be claimed by a business entity primarily engaged in retail trade, residential rental property, or by a public utilities business.
- (11) A business entity that has no employees:
 - (a) may not claim tax credits under Subsections (7)(a) through (d); and
 - (b) may claim tax credits under Subsections (7)(e) through (f).
- (12)
 - (a) A business entity may not claim or carry forward a tax credit available under this part for a taxable year during which the business entity has claimed the targeted business income tax credit available under Section 63N-2-304.
 - (b) A business entity may not claim or carry forward a tax credit available under this section for a taxable year during which the business entity claims or carries forward a tax credit available under Section 59-7-610 or 59-10-1007.
- (13)
 - (a) On or before November 30, 2018, and every three years after 2018, the Revenue and Taxation Interim Committee shall review the tax credits provided by this section and make recommendations concerning whether the tax credits should be continued, modified, or repealed.
 - (b) In conducting the review required by Subsection (13)(a), the Revenue and Taxation Interim Committee shall:
 - (i) schedule time on at least one committee agenda to conduct the review;
 - (ii) invite state agencies, individuals, and organizations concerned with the credits under review to provide testimony;
 - (iii) ensure that the recommendations described in this section include an evaluation of:
 - (A) the cost of the tax credits to the state;
 - (B) the purpose and effectiveness of the tax credits; and
 - (C) the extent to which the state benefits from the tax credits; and
 - (iv) undertake other review efforts as determined by the chairs of the Revenue and Taxation Interim Committee.

Amended by Chapter 282, 2021 General Session

63N-2-214 Annual report.

Each county applicant or municipal applicant designated as an enterprise zone shall annually report to the office regarding the economic activity that has occurred in the zone following the designation.

Renumbered and Amended by Chapter 283, 2015 General Session

63N-2-215 Indian tribes -- Application.

- (1) For purposes of this section:

- (a) "Indian reservation" has the same meaning as defined in Section 9-9-210.
- (b) "Indian tribe" has the same meaning as defined in Section 9-9-402.
- (c) "Tribal applicant" means the governing authority of a tribe that meets the requirements for designation as an enterprise zone under Subsection (2).
- (2) Indian tribes may apply for designation of an area within an Indian reservation as an enterprise zone.
- (3) The tribal applicant shall follow the application procedure for a municipal applicant in this part except for the population requirement in Subsections 63N-2-204(2)(a) and (b).

Amended by Chapter 79, 2019 General Session

Part 3

Targeted Business Income Tax Credit in an Enterprise Zone

63N-2-301 Title.

This part is known as "Targeted Business Income Tax Credit in an Enterprise Zone."

Enacted by Chapter 283, 2015 General Session

63N-2-302 Definitions.

As used in this part:

- (1) "Business applicant" means a business that:
 - (a) is a claimant, estate, or trust; and
 - (b) meets the criteria established in Section 63N-2-304.
- (2)
 - (a) Except as provided in Subsection (2)(b), "claimant" means a resident person or a nonresident person.
 - (b) "Claimant" does not include an estate or trust.
- (3) "Community investment project" means a project that includes one or more of the following criteria in addition to the normal operations of the business applicant:
 - (a) significant new employment; or
 - (b) significant new capital development.
- (4) "Enterprise zone" means an area within a county or municipality that has been designated as an enterprise zone by the office under Part 2, Enterprise Zone Act.
- (5) "Estate" means a resident estate or a nonresident estate.
- (6) "Refundable tax credit" means a tax credit that a claimant, estate, or trust may claim:
 - (a) as provided by statute; and
 - (b) regardless of whether, for the taxable year for which the claimant, estate, or trust claims the tax credit, the claimant, estate, or trust has a tax liability under:
 - (i) Title 59, Chapter 7, Corporate Franchise and Income Taxes; or
 - (ii) Title 59, Chapter 10, Individual Income Tax Act.
- (7) "Targeted business income tax credit" means a refundable tax credit available under this part.
- (8) "Targeted business income tax credit eligibility certificate" means a document provided by the office to a business applicant before the applicant may claim a targeted business income tax credit under this part.
- (9) "Trust" means a resident trust or a nonresident trust.

Amended by Chapter 352, 2017 General Session

63N-2-303 Duties of the office.

The office shall:

- (1) monitor the implementation and operation of this part and conduct a continuing evaluation of the effectiveness of the targeted business income tax credit in bringing significant new employment and significant new capital development to rural communities;
- (2) determine a business entity's eligibility for a targeted business income tax credit award;
- (3) ensure that tax credits are only awarded under this part to a business applicant that has satisfied performance benchmarks as determined by the office;
- (4) ensure that the amount of targeted business income tax credit awarded to a business applicant through a targeted business income tax credit eligibility certificate is no more than \$100,000 for the business applicant's taxable year;
- (5) ensure that the aggregate amount of targeted business income tax credits awarded to business applicants through targeted business income tax credit eligibility certificates is no more than \$300,000 for each fiscal year;
- (6) as part of the annual written report described in Section 63N-1a-306, prepare an annual evaluation that provides:
 - (a) the identity of each business applicant that was provided a targeted business income tax credit eligibility certificate by the office during the year of the annual report; and
 - (b) the total amount awarded in targeted business income tax credit for each development zone; and
- (7) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and in accordance with the provisions of this part, make rules regarding:
 - (a) the determination of what constitutes:
 - (i) significant new employment;
 - (ii) significant new capital development; and
 - (iii) a community investment project;
 - (b) the form and content of an application for a targeted business income tax credit eligibility certificate under this part;
 - (c) documentation or other requirements for a business applicant to receive a targeted business income tax credit eligibility certificate under this part; and
 - (d) administration of targeted business income tax credit awards and the issuing of targeted business income tax credit eligibility certificates, including relevant timelines and deadlines.

Amended by Chapter 282, 2021 General Session

63N-2-304 Application for targeted business income tax credit.

- (1)
 - (a) A business applicant may apply to the office for a targeted business income tax credit eligibility certificate under this part if the business applicant:
 - (i) is located in:
 - (A) an enterprise zone; and
 - (B) a county with a population of less than 25,000;
 - (ii) meets the requirements of Section 63N-2-212;
 - (iii) provides a community investment project within the enterprise zone; and
 - (iv) is not engaged in the following:

- (A) construction;
 - (B) retail trade; or
 - (C) public utility activities.
 - (b) For a taxable year for which a business applicant claims a targeted business income tax credit available under this part, the business applicant may not claim or carry forward a tax credit available under Section 59-7-610, 59-10-1007, or 63N-2-213.
- (2)
- (a) A business applicant seeking to claim a targeted business income tax credit under this part shall submit an application to the office by no later than June 1 of the taxable year in which the business applicant is seeking to claim the targeted business income tax credit.
 - (b) The application described in Subsection (2)(a) shall include:
 - (i) any documentation required by the office to demonstrate that the business applicant meets the requirements of Subsection (1);
 - (ii) a plan developed by the business applicant that describes:
 - (A) if the community investment project includes significant new employment, the projected number and anticipated wage level of the jobs that the business applicant plans to create as the basis for qualifying for a targeted business income tax credit;
 - (B) if the community investment project includes significant new capital development, the capital development the business applicant plans to make as the basis for qualifying for a targeted business income tax credit;
 - (C) how the business applicant's plan coordinates with the goals of the enterprise zone in which the business applicant is providing a community investment project;
 - (D) how the business applicant's plan coordinates with the overall economic development goals of the county or municipality in which the business applicant is providing a community investment project;
 - (E) any matching funds that will be used for the community investment project;
 - (F) how any targeted business income tax credit incentives that were awarded in a previous year have been used for the community investment project by the business applicant; and
 - (G) the requested amount of the targeted business income tax credit; and
 - (iii) any additional information required by the office.
- (3)
- (a) The office shall:
 - (i) evaluate an application filed under Subsection (2);
 - (ii) determine whether the business applicant is potentially eligible for a targeted business income tax credit; and
 - (iii) if the business applicant is potentially eligible for a targeted business income tax credit, determine performance benchmarks and the deadline for meeting those benchmarks that the business applicant must achieve before the office awards a targeted business income tax credit to the business applicant.
 - (b) If the office determines that the business applicant is potentially eligible for a targeted business income tax credit, the office shall:
 - (i) notify the business applicant that the business applicant is eligible for a targeted business income tax credit if the business applicant meets the performance benchmarks by the deadline as determined by the office as described in Subsection (3)(a)(iii);
 - (ii) notify the business applicant of the potential amount of the targeted business income tax credit that may be awarded to the business applicant, which amount may be no more than \$100,000 for the business applicant in a taxable year; and

- (iii) monitor a business applicant to ensure compliance with this section and to measure the business applicant's progress in meeting performance benchmarks.
- (c) If the business applicant provides evidence to the office, in a form prescribed by the office, that the business applicant has achieved the performance benchmarks by the deadline as determined by the office as described in Subsection (3)(a)(iii), the office shall:
 - (i) certify that the business applicant is eligible for a targeted business income tax credit;
 - (ii) issue a targeted business income tax credit eligibility certificate to the business applicant in accordance with:
 - (A) for a business applicant that files a return under Title 59, Chapter 7, Corporate Franchise and Income Taxes, Section 59-7-624; or
 - (B) for a business applicant that files a return under Title 59, Chapter 10, Individual Income Tax Act, Section 59-10-1112; and
 - (iii) provide a duplicate copy of the targeted business income tax credit eligibility certificate to the State Tax Commission.
- (4) The total amount of the targeted business income tax credit eligibility certificates that the office issues under this part for all business applicants may not exceed \$300,000 in any fiscal year.
- (5)
 - (a) A business applicant shall retain the targeted business income tax credit eligibility certificate as issued under Subsection (3) for the same time period that a person is required to keep books and records under Section 59-1-1406.
 - (b) The office may audit a business applicant to ensure:
 - (i) eligibility for a targeted business income tax credit; and
 - (ii) compliance with this section.

Amended by Chapter 247, 2019 General Session

Part 5

New Convention Facility Development Incentives

63N-2-501 Title.

This part is known as "New Convention Facility Development Incentives."

Renumbered and Amended by Chapter 283, 2015 General Session

63N-2-502 Definitions.

As used in this part:

- (1) "Agreement" means an agreement described in Section 63N-2-503.
- (2) "Base taxable value" means the value of hotel property before the construction on a qualified hotel begins, as that value is established by the county in which the hotel property is located, using a reasonable valuation method that may include the value of the hotel property on the county assessment rolls the year before the year during which construction on the qualified hotel begins.
- (3) "Certified claim" means a claim that the office has approved and certified as provided in Section 63N-2-505.
- (4) "Claim" means a written document submitted by a qualified hotel owner or host local government to request a convention incentive.

- (5) "Claimant" means the qualified hotel owner or host local government that submits a claim under Subsection 63N-2-505(1)(a) for a convention incentive.
- (6) "Commission" means the Utah State Tax Commission.
- (7) "Community reinvestment agency" means the same as that term is defined in Section 17C-1-102.
- (8) "Construction revenue" means revenue generated from state taxes and local taxes imposed on transactions occurring during the eligibility period as a result of the construction of the hotel property, including purchases made by a qualified hotel owner and its subcontractors.
- (9) "Convention incentive" means an incentive for the development of a qualified hotel, in the form of payment from the incentive fund as provided in this part, as authorized in an agreement.
- (10) "Eligibility period" means:
 - (a) the period that:
 - (i) begins the date construction of a qualified hotel begins; and
 - (ii) ends:
 - (A) for purposes of the state portion, 20 years after the date of initial occupancy of that qualified hotel; or
 - (B) for purposes of the local portion and incremental property tax revenue, 25 years after the date of initial occupancy of that hotel; or
 - (b) as provided in an agreement between the office and a qualified hotel owner or host local government, a period that:
 - (i) begins no earlier than the date construction of a qualified hotel begins; and
 - (ii) is shorter than the period described in Subsection (10)(a).
- (11) "Endorsement letter" means a letter:
 - (a) from the county in which a qualified hotel is located or is proposed to be located;
 - (b) signed by the county executive; and
 - (c) expressing the county's endorsement of a developer of a qualified hotel as meeting all the county's criteria for receiving the county's endorsement.
- (12) "Host agency" means the community reinvestment agency of the host local government.
- (13) "Host local government" means:
 - (a) a county that enters into an agreement with the office for the construction of a qualified hotel within the unincorporated area of the county; or
 - (b) a city or town that enters into an agreement with the office for the construction of a qualified hotel within the boundary of the city or town.
- (14) "Hotel property" means a qualified hotel and any property that is included in the same development as the qualified hotel, including convention, exhibit, and meeting space, retail shops, restaurants, parking, and other ancillary facilities and amenities.
- (15) "Incentive fund" means the Convention Incentive Fund created in Section 63N-2-503.5.
- (16) "Incremental property tax revenue" means the amount of property tax revenue generated from hotel property that equals the difference between:
 - (a) the amount of property tax revenue generated in any tax year by all taxing entities from hotel property, using the current assessed value of the hotel property; and
 - (b) the amount of property tax revenue that would be generated that tax year by all taxing entities from hotel property, using the hotel property's base taxable value.
- (17) "Local portion" means the portion of new tax revenue that is generated by local taxes.
- (18) "Local taxes" means a tax imposed under:
 - (a) Section 59-12-204;
 - (b) Section 59-12-301;
 - (c) Sections 59-12-352 and 59-12-353;

- (d) Subsection 59-12-603(1)(a); or
- (e) Section 59-12-1102.
- (19) "New tax revenue" means construction revenue, offsite revenue, and onsite revenue.
- (20) "Offsite revenue" means revenue generated from state taxes and local taxes imposed on transactions by a third-party seller occurring other than on hotel property during the eligibility period, if:
 - (a) the transaction is subject to a tax under Title 59, Chapter 12, Sales and Use Tax Act; and
 - (b) the third-party seller voluntarily consents to the disclosure of information to the office, as provided in Subsection 63N-2-505(2)(b)(i)(E).
- (21) "Onsite revenue" means revenue generated from state taxes and local taxes imposed on transactions occurring on hotel property during the eligibility period.
- (22) "Public infrastructure" means:
 - (a) water, sewer, storm drainage, electrical, telecommunications, and other similar systems and lines;
 - (b) streets, roads, curbs, gutters, sidewalks, walkways, parking facilities, and public transportation facilities; and
 - (c) other buildings, facilities, infrastructure, and improvements that benefit the public.
- (23) "Qualified hotel" means a full-service hotel development constructed in the state on or after July 1, 2014 that:
 - (a) requires a significant capital investment;
 - (b) includes at least 85 square feet of convention, exhibit, and meeting space per guest room; and
 - (c) is located within 1,000 feet of a convention center that contains at least 500,000 square feet of convention, exhibit, and meeting space.
- (24) "Qualified hotel owner" means a person who owns a qualified hotel.
- (25) "Review committee" means the independent review committee established under Section 63N-2-504.
- (26) "Significant capital investment" means an amount of at least \$200,000,000.
- (27) "State portion" means the portion of new tax revenue that is generated by state taxes.
- (28) "State taxes" means a tax imposed under Subsection 59-12-103(2)(a)(i), (2)(b)(i), (2)(c)(i), or (2)(d)(i)(A).
- (29) "Third-party seller" means a person who is a seller in a transaction:
 - (a) occurring other than on hotel property;
 - (b) that is:
 - (i) the sale, rental, or lease of a room or of convention or exhibit space or other facilities on hotel property; or
 - (ii) the sale of tangible personal property or a service that is part of a bundled transaction, as defined in Section 59-12-102, with a sale, rental, or lease described in Subsection (29)(b)(i); and
 - (c) that is subject to a tax under Title 59, Chapter 12, Sales and Use Tax Act.

Amended by Chapter 407, 2020 General Session

63N-2-503 Agreement for development of new convention hotel -- Convention incentive authorized -- Agreement requirements.

- (1) The office, with the board's advice, may enter into an agreement with a qualified hotel owner or a host local government:
 - (a) for the development of a qualified hotel; and

- (b) to authorize a convention incentive:
 - (i) to the qualified hotel owner or host local government, but not both;
 - (ii) for a period not to exceed the eligibility period;
 - (iii) in the amount of new tax revenue, subject to Subsection (2) and notwithstanding any other restriction provided by law;
 - (iv) if:
 - (A) the county in which the qualified hotel is proposed to be located has issued an endorsement letter endorsing the qualified hotel owner; and
 - (B) all applicable requirements of this part and the agreement are met; and
 - (v) that is reduced by \$1,900,000 per year during the first two years of the eligibility period, as described in Subsection (2)(c).
- (2) An agreement under Subsection (1) shall:
 - (a) specify the requirements for the qualified hotel owner or host local government to qualify for a convention incentive;
 - (b) require compliance with the terms of the endorsement letter issued by the county in which the qualified hotel is proposed to be located;
 - (c) require the amount of certified claims for the first two years of the eligibility period to be reduced by \$1,900,000 per year;
 - (d) with respect to the state portion of the convention incentive:
 - (i) specify the maximum dollar amount that the qualified hotel owner or host local government may receive, subject to a maximum of:
 - (A) for any calendar year, the amount of the state portion in that calendar year; and
 - (B) \$75,000,000 in the aggregate for the qualified hotel owner or host local government during an eligibility period, calculated as though the two \$1,900,000 reductions of the convention incentive amount under Subsection (1)(b)(iv) had not occurred; and
 - (ii) specify the maximum percentage of the state portion that may be used in calculating the portion of the convention incentive that the qualified hotel owner or host local government may receive during the eligibility period for each calendar year and in the aggregate;
 - (e) establish a shorter period of time than the period described in Subsection 63N-2-502(10)(a) during which the qualified hotel owner or host local government may claim the convention incentive or that the host agency may be paid incremental property tax revenue, if the office and qualified hotel owner or host local government agree to a shorter period of time;
 - (f) require the qualified hotel owner to retain books and records supporting a claim for the convention incentive as required by Section 59-1-1406;
 - (g) allow the transfer of the agreement to a third party if the third party assumes all liabilities and responsibilities in the agreement;
 - (h) limit the expenditure of funds received under the convention incentive as provided in Section 63N-2-512; and
 - (i) require the qualified hotel owner or host local government to submit to any audit and to provide any audit level review or other level of review the office considers appropriate for verification of any claim.
- (3) Notwithstanding any other provision of law, a county or city in which a qualified hotel is located may contribute property to the qualified hotel owner or host local government without consideration, to be used as provided in Subsection 63N-2-508(3)(a).

Amended by Chapter 282, 2021 General Session

63N-2-503.5 Convention Incentive Fund.

- (1) There is created an expendable special revenue fund known as the Convention Incentive Fund.
- (2)
 - (a) The incentive fund shall be funded by new tax revenue, as provided in Subsection (3).
 - (b) No legislative appropriation is required to fund the incentive fund.
 - (c) All interest generated from the investment of money in the incentive fund shall be deposited into the incentive fund.
- (3)
 - (a) During the portion of the eligibility period specified by the office under Subsection 63N-2-505(7)(a), the commission shall cause new tax revenue to be deposited into the incentive fund as provided in this Subsection (3).
 - (b) To the extent the commission is able to identify sellers involved in transactions generating state taxes or local taxes before the payment of those taxes, the commission shall deposit new tax revenue directly into the incentive fund, notwithstanding Subsection 59-12-103(3) and before the allocations required by Section 59-12-204, Subsection 59-12-205(2), Section 59-12-401, Section 59-12-603, and Section 59-12-1102.
 - (c) The commission shall, within 30 days after the office provides the information required under Subsection 63N-2-505(7)(b):
 - (i) except as provided in Subsection (3)(d), withhold from distribution to counties, cities, and towns the local portion of new tax revenue not deposited into the incentive fund under Subsection (3)(b) and transfer that local portion to the incentive fund; and
 - (ii) transfer to the incentive fund any state portion of new tax revenue not deposited into the incentive fund under Subsection (3)(b).
 - (d) The commission may equalize over a 12-month period the withholding required under Subsection (3)(c)(i) for a county, city, or town that requests equalization.
- (4) One year after the end of the eligibility period, the commission shall transfer any money remaining in the incentive fund to the Stay Another Day and Bounce Back Fund created in Section 63N-2-511, except to the extent the money is needed to pay an unpaid certified claim.
- (5) Except as otherwise provided in this chapter, an agreement with or approval by a local government entity is not required for the use of the state portion or local portion to fund a convention incentive.
- (6) Distributions of money from the incentive fund shall be in accordance with Section 63N-2-505.

Enacted by Chapter 417, 2015 General Session

63N-2-504 Independent review committee.

- (1) In accordance with rules adopted by the office under Section 63N-2-509, the GO Utah board shall establish a separate, independent review committee to provide recommendations to the office regarding the terms and conditions of an agreement and to consult with the office as provided in this part or in rule.
- (2) The review committee shall consist of:
 - (a) one member appointed by the executive director to represent the office;
 - (b) two members appointed by the mayor or chief executive of the county in which the qualified hotel is located or proposed to be located;
 - (c) two members appointed by:
 - (i) the mayor of the municipality in which the qualified hotel is located or proposed to be located, if the qualified hotel is located or proposed to be located within the boundary of a municipality; or

- (ii) the mayor or chief executive of the county in which the qualified hotel is located or proposed to be located, in addition to the two members appointed under Subsection (2)(b), if the qualified hotel is located or proposed to be located outside the boundary of a municipality;
 - (d) an individual representing the hotel industry, appointed by the Utah Hotel and Lodging Association;
 - (e) an individual representing the commercial development and construction industry, appointed by the president or chief executive officer of the local chamber of commerce;
 - (f) an individual representing the convention and meeting planners industry, appointed by the president or chief executive officer of the local convention and visitors bureau; and
 - (g) one member appointed by the GO Utah board.
- (3)
- (a) A member serves an indeterminate term and may be removed from the review committee by the appointing authority at any time.
 - (b) A vacancy may be filled in the same manner as an appointment under Subsection (2).
- (4) A member of the review committee may not be paid for serving on the review committee and may not receive per diem or expense reimbursement.
- (5) The office shall provide any necessary staff support to the review committee.

Amended by Chapter 282, 2021 General Session

63N-2-505 Submission of written claim for convention incentive -- Disclosure of tax returns and other information -- Determination of claim.

- (1) The office may not pay any money from the incentive fund to a qualified hotel owner or host local government unless:
- (a) the qualified hotel owner or host local government submits a claim and other required documentation, as provided in this section; and
 - (b) the office approves and certifies the claim, as provided in this section.
- (2) A qualified hotel owner or host local government that desires to qualify for a convention incentive shall submit to the office:
- (a) a written claim for a convention incentive;
 - (b)
 - (i) for a claim submitted by a qualified hotel owner:
 - (A) a certification by the individual signing the claim that the individual is duly authorized to sign the claim on behalf of the qualified hotel owner;
 - (B) documentation of the new tax revenue previously generated, itemized by construction revenue, offsite revenue, onsite revenue, type of sales or use tax, and the location of the transaction generating the new tax revenue as determined under Sections 59-12-211, 59-12-211.1, 59-12-212, 59-12-213, 59-12-214, and 59-12-215;
 - (C) the identity of sellers collecting onsite revenue and the date the sellers will begin collecting onsite revenue;
 - (D) a document in which the qualified hotel owner expressly directs and authorizes the commission to disclose to the office the qualified hotel owner's tax returns and other information that would otherwise be subject to confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code;
 - (E) a document in which the qualified hotel's direct vendors, lessees, or subcontractors, as applicable, expressly direct and authorize the commission to disclose to the office the tax returns and other information of those vendors, lessees, or subcontractors that would

- otherwise be subject to confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code;
- (F) a document in which a third-party seller expressly and voluntarily directs and authorizes the commission to disclose to the office the third-party seller's tax returns and other information that would otherwise be subject to confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code;
 - (G) documentation verifying that the qualified hotel owner is in compliance with the terms of the agreement; and
 - (H) any other documentation that the agreement or office requires; and
- (ii) for an application submitted by a host local government, documentation of the new tax revenue generated during the preceding year;
- (c) if the host local government intends to assign the convention incentive to a community reinvestment agency, a document signed by the governing body members of the community reinvestment agency that expressly directs and authorizes the commission to disclose to the office the agency's tax returns and other information that would otherwise be subject to confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code; and
 - (d) an audit level attestation, or other level of review approved by the office, from an independent certified public accountant, hired by the claimant, attesting to the accuracy and validity of the amount of the state portion and the local portion being claimed by the claimant.
- (3)
- (a) The office shall submit to the commission the documents described in Subsections (2)(b)(i) (C), (D), and (E) and (2)(c) authorizing disclosure of the tax returns and other information.
 - (b) Upon receipt of the documents described in Subsection (3)(a), the commission shall provide to the office the tax returns and other information described in those documents.
- (4) If the office determines that the tax returns and other information are inadequate to enable the office to approve and certify a claim, the office shall inform the claimant that the tax returns and other information were inadequate and request the tax credit applicant to submit additional documentation to validate the claim.
- (5) If the office determines that the returns and other information, including any additional documentation provided under Subsection (4), comply with applicable requirements and provide reasonable justification to approve and certify the claim, the office shall:
- (a) approve and certify the claim;
 - (b) determine the amount of the certified claim; and
 - (c) disburse money from the incentive fund to pay the certified claim as provided in Subsection (6).
- (6) The office shall pay claims from available money in the incentive fund at least annually.
- (7) For each certified claim, the office shall provide the commission:
- (a) for onsite revenue:
 - (i) the identity of sellers operating upon the hotel property;
 - (ii) the date that the commission is to begin depositing or transferring onsite revenue under Section 63N-2-503.5 for each seller operating upon the hotel property;
 - (iii) the date that the commission is to stop depositing or transferring onsite revenue to the incentive fund under Section 63N-2-503.5 for each seller operating upon the hotel property; and
 - (iv) the type of sales or use tax subject to the commission's deposit or transfer to the incentive fund under Section 63N-2-503.5;
 - (b) for construction revenue and offsite revenue:

- (i) the amount of new tax revenue authorized under the agreement constituting construction revenue or offsite revenue;
 - (ii) the location of the transactions generating the construction revenue and offsite revenue, as determined under Sections 59-12-211, 59-12-211.1, 59-12-212, 59-12-213, 59-12-214, and 59-12-215; and
 - (iii) the type of sales or use tax that constitutes the construction revenue or offsite revenue described in Subsection (7)(b)(ii); and
- (c) any other information the commission requires.

Amended by Chapter 350, 2016 General Session

63N-2-507 Assigning convention incentive.

- (1) A host local government that enters into an agreement with the office may, by resolution, assign a convention incentive to a community reinvestment agency, in accordance with rules adopted by the office.
- (2) A host local government that adopts a resolution assigning a convention incentive under Subsection (1) shall provide a copy of the resolution to the office.

Amended by Chapter 350, 2016 General Session

63N-2-508 Payment of incremental property tax revenue.

- (1) As used in this section:
 - (a) "Displaced tax increment" means the amount of tax increment that a county would have paid to the host agency, except for Subsection (2)(b), from tax increment revenue generated from the project area in which the hotel property is located.
 - (b) "Secured obligations" means bonds or other obligations of a host agency for the payment of which the host agency has, before March 13, 2015, pledged tax increment generated from the project area in which the hotel property is located.
 - (c) "Tax increment" means the same as that term is defined in Section 17C-1-102.
 - (d) "Tax increment shortfall" means the amount of displaced tax increment a host agency needs to receive, in addition to any other tax increment the host agency receives from the project area in which the hotel property is located, to provide the host agency sufficient tax increment funds to be able to pay the debt service on its secured obligations.
- (2)
 - (a) In accordance with rules adopted by the office and subject to Subsection (5), a county in which a qualified hotel is located shall retain incremental property tax revenue during the eligibility period.
 - (b) The amount of incremental property tax revenue that a county retains under Subsection (2)(a) for a taxable year reduces by that amount any tax increment that the county would otherwise have paid to the host agency for that year, subject to Subsection (5).
 - (c) For any taxable year in which a reduction of tax increment occurs as provided in Subsection (2)(b), the county shall provide the host agency a notice that:
 - (i) states the amount of displaced tax increment for that year;
 - (ii) states the number of years remaining in the eligibility period;
 - (iii) provides a detailed accounting of how the displaced tax increment was used; and
 - (iv) explains how the displaced tax increment will be used in the following taxable year.
- (3) Incremental property tax revenue may be used only for:
 - (a) the purchase of or payment for, or reimbursement of a previous purchase of or payment for:

- (i) tangible personal property used in the construction of convention, exhibit, or meeting space on hotel property;
- (ii) tangible personal property that, upon the construction of hotel property, becomes affixed to hotel property as real property; or
- (iii) any labor and overhead costs associated with the construction described in Subsections (3)(a)(i) and (ii); and
- (b) public infrastructure.
- (4)
 - (a) Incremental property tax:
 - (i) is not tax increment; and
 - (ii) is not subject to:
 - (A) Title 17C, Limited Purpose Local Government Entities - Community Reinvestment Agency Act; or
 - (B) any other law governing tax increment, except as provided in Subsection (4)(c).
 - (b) The payment and use of incremental property tax, as provided in this part, is not subject to the approval of any taxing entity, as defined in Section 17C-1-102.
 - (c) Revenue from an increase in the taxable value of hotel property is considered to be a redevelopment adjustment for purposes of calculating the certified tax rate under Section 59-2-924.
- (5)
 - (a) Subject to Subsection (5)(b), a county may not spend the portion of incremental property tax revenue that is displaced tax increment until after 30 days after the county provides the notice required under Subsection (2)(c).
 - (b) If, within 30 days after the county provides the notice required under Subsection (2)(c), a host agency provides written notice to the county that the host agency will experience a tax increment shortfall, the county shall, unless the host agency agrees otherwise, pay to the host agency displaced tax increment in the amount of the tax increment shortfall.

Amended by Chapter 350, 2016 General Session

63N-2-509 Rulemaking authority -- Requirements for rules.

- (1) The office shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules to carry out its responsibilities under this part and to implement the provisions of this part.
- (2) The rules the office makes under Subsection (1) shall:
 - (a) establish, consistent with this part, the conditions required for a convention incentive;
 - (b) require that a significant capital investment be made in the development of the hotel property;
 - (c) require a claimant to meet all applicable requirements in order to receive a distribution from the incentive fund;
 - (d) require that a qualified hotel owner meet the county's requirements to receive an endorsement letter; and
 - (e) provide for the establishment of an independent review committee, in accordance with the requirements of Section 63N-2-504.

Renumbered and Amended by Chapter 283, 2015 General Session

Amended by Chapter 417, 2015 General Session

63N-2-510 Report by office -- Posting of report.

- (1) The office shall include the following information in the office's annual written report described in Section 63N-1a-306:
 - (a) the state's success in attracting new conventions and corresponding new state revenue;
 - (b) the estimated amount of convention incentive commitments and the associated calculation made by the office and the period of time over which convention incentives are expected to be paid;
 - (c) the economic impact on the state related to generating new state revenue and providing convention incentives; and
 - (d) the estimated and actual costs and economic benefits of the convention incentive commitments that the office made.
- (2) Upon the commencement of the construction of a qualified hotel, the office shall send a written notice to the Division of Finance:
 - (a) referring to the two annual deposits required under Subsection 59-12-103(11); and
 - (b) notifying the Division of Finance that construction on the qualified hotel has begun.

Amended by Chapter 282, 2021 General Session

63N-2-511 Stay Another Day and Bounce Back Fund.

- (1) As used in this section:
 - (a) "Bounce back fund" means the Stay Another Day and Bounce Back Fund, created in Subsection (2).
 - (b) "Tourism board" means the Board of Tourism Development created in Section 63N-7-101.
- (2) There is created an expendable special revenue fund known as the Stay Another Day and Bounce Back Fund.
- (3) The bounce back fund shall:
 - (a) be administered by the tourism board;
 - (b) earn interest; and
 - (c) be funded by:
 - (i) annual payments under Section 17-31-9 from the county in which a qualified hotel is located;
 - (ii) money transferred to the bounce back fund under Section 63N-2-503.5 or 63N-2-512; and
 - (iii) any money that the Legislature chooses to appropriate to the bounce back fund.
- (4) Interest earned by the bounce back fund shall be deposited into the bounce back fund.
- (5) The tourism board may use money in the bounce back fund to pay for a tourism program of advertising, marketing, and branding of the state, taking into consideration the long-term strategic plan, economic trends, and opportunities for tourism development on a statewide basis.

Renumbered and Amended by Chapter 283, 2015 General Session

Amended by Chapter 417, 2015 General Session

63N-2-512 Hotel Impact Mitigation Fund.

- (1) As used in this section:
 - (a) "Affected hotel" means a hotel built in the state before July 1, 2014.
 - (b) "Direct losses" means affected hotels' losses of hotel guest business attributable to the qualified hotel room supply being added to the market in the state.
 - (c) "Mitigation fund" means the Hotel Impact Mitigation Fund, created in Subsection (2).
- (2) There is created an expendable special revenue fund known as the Hotel Impact Mitigation Fund.

- (3) The mitigation fund shall:
 - (a) be administered by the GO Utah board;
 - (b) earn interest; and
 - (c) be funded by:
 - (i) payments required to be deposited into the mitigation fund by the Division of Finance under Subsection 59-12-103(11);
 - (ii) money required to be deposited into the mitigation fund under Subsection 17-31-9(2) by the county in which a qualified hotel is located; and
 - (iii) any money deposited into the mitigation fund under Subsection (6).
- (4) Interest earned by the mitigation fund shall be deposited into the mitigation fund.
- (5)
 - (a) In accordance with office rules, the GO Utah board shall annually pay up to \$2,100,000 of money in the mitigation fund:
 - (i) to affected hotels;
 - (ii) for four consecutive years, beginning 12 months after the date of initial occupancy of the qualified hotel occurs; and
 - (iii) to mitigate direct losses.
 - (b)
 - (i) If the amount the GO Utah board pays under Subsection (5)(a) in any year is less than \$2,100,000, the GO Utah board shall pay to the Stay Another Day and Bounce Back Fund, created in Section 63N-2-511, the difference between \$2,100,000 and the amount paid under Subsection (5)(a).
 - (ii) The GO Utah board shall make any required payment under Subsection (5)(b)(i) within 90 days after the end of the year for which a determination is made of how much the GO Utah board is required to pay to affected hotels under Subsection (5)(a).
- (6) A host local government or qualified hotel owner may make payments to the Division of Finance for deposit into the mitigation fund.
- (7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office shall, in consultation with the Utah Hotel and Lodging Association and the county in which the qualified hotel is located, make rules establishing procedures and criteria governing payments under Subsection (5)(a) to affected hotels.

Amended by Chapter 282, 2021 General Session

63N-2-513 Authorized expenditures of convention incentive.

- (1) A qualified hotel owner or host local government may spend money received from the state portion of a convention incentive only for a purpose described in Subsection 63N-2-508(2)(a).
- (2) A qualified hotel owner or host local government may spend money received from the local portion of a convention incentive only for:
 - (a) a purpose described in Subsection (1);
 - (b) public infrastructure; and
 - (c) other purposes as specified in the agreement.

Renumbered and Amended by Chapter 283, 2015 General Session

Amended by Chapter 417, 2015 General Session

Part 8

Technology and Life Science Economic Development Act

63N-2-801 Title.

This part is known as the "Technology and Life Science Economic Development Act."

Renumbered and Amended by Chapter 283, 2015 General Session

63N-2-802 Definitions.

As used in this part:

- (1) "Claimant" means the same as that term is defined in Section 59-10-1002.
- (2) "Eligible claimant, estate, or trust" means a claimant, estate, or trust that:
 - (a) enters into an agreement with the office in accordance with this part to receive a tax credit certificate for a tax credit under Section 59-10-1025; and
 - (b) receives a tax credit certificate from the office in accordance with this part.
- (3) "Life science establishment" means the same as that term is defined in Section 59-10-1025.
- (4) "Tax credit" means a tax credit under Section 59-10-1025.
- (5) "Tax credit applicant" means a person that applies to the office to receive a tax credit certificate under this part.
- (6) "Tax credit certificate" means a certificate issued by the office that:
 - (a) lists the name of the tax credit certificate recipient;
 - (b) lists the tax credit certificate recipient's taxpayer identification number;
 - (c) lists the amount of the tax credit certificate recipient's tax credits authorized under this part for a taxable year; and
 - (d) includes other information as determined by the office.
- (7) "Tax credit certificate recipient" means an eligible claimant, estate, or trust that receives a tax credit certificate in accordance with this part for a tax credit under Section 59-10-1025.

Amended by Chapter 354, 2016 General Session

63N-2-803 Tax credits issued by office.

- (1) The office may issue tax credit certificates under this part only to the extent that the Legislature, by statute, expressly authorizes the office to issue the tax credit certificates under this part for a fiscal year.
- (2)
 - (a) For fiscal year 2011-12 only, the office may issue a total of \$1,300,000 in tax credit certificates in accordance with this part.
 - (b) For fiscal year 2016-17 only, the office may issue a total of \$150,000 in tax credit certificates in accordance with this part.
 - (c) For fiscal year 2017-18 only, the office may issue a total of \$150,000 in tax credit certificates in accordance with this part.
- (3) If the total amount of tax credit certificates the office issues in a fiscal year is less than the amount of tax credit certificates the office may issue under this part in a fiscal year, the office may issue the remaining amount of tax credit certificates in a fiscal year after the fiscal year for which there is a remaining amount of tax credit certificates.

Amended by Chapter 354, 2016 General Session

63N-2-804 Person may not claim or pass through a tax credit without tax credit certificate.

A person may not claim or pass through a tax credit unless the person has received a tax credit certificate from the office for the taxable year for which the person claims or passes through the tax credit.

Renumbered and Amended by Chapter 283, 2015 General Session

63N-2-805 Application process.

- (1) A tax credit applicant may apply to the office to receive a tax credit certificate by filing an application with the office:
 - (a) on or before the quarterly deadline established by the office by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and
 - (b) on a form and in the manner prescribed by the office.
- (2) The application shall include:
 - (a) tax return information as required by the office that is necessary for the office to determine eligibility for and the amount of a tax credit; and
 - (b) other documentation as required by the office.
- (3) As part of the application required by this section, a tax credit applicant shall sign a separate document that expressly directs and authorizes the State Tax Commission to disclose to the office the tax credit certificate recipient's tax returns and other information concerning the tax credit certificate that:
 - (a) would otherwise be subject to confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code; and
 - (b) are necessary for the office to determine eligibility for and the amount of a tax credit under this part.
- (4) Upon receipt of the document described in Subsection (3), the State Tax Commission shall provide the office with the tax returns and other information requested by the office that the tax credit applicant directed or authorized the State Tax Commission to provide to the office, including information necessary to determine eligibility for the amount of a tax credit.
- (5) If the office determines that the information a tax credit applicant provides is inadequate to provide a reasonable justification for authorizing a tax credit, the office shall:
 - (a) deny the tax credit; or
 - (b) inform the tax credit applicant that the information is inadequate and ask the tax credit applicant to submit new or additional documentation.

Renumbered and Amended by Chapter 283, 2015 General Session

63N-2-806 Criteria for tax credits.

- (1) A tax credit applicant shall establish as part of the application required by Section 63N-2-805 that the tax credit applicant:
 - (a) meets all of the criteria to receive the tax credit for which the tax credit applicant applies, except for the requirement to obtain a tax credit certificate; and
 - (b) will provide a long-term economic benefit to the state.
- (2) The office may not issue a tax credit certificate to a tax credit applicant if:
 - (a) the tax credit applicant fails to meet the requirements of Subsection (1)(a); and
 - (b) the life science establishment does not enter into an agreement described in Section 63N-2-808 with the office.

Amended by Chapter 354, 2016 General Session

63N-2-807 Rulemaking authority.

The office shall, by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establish:

- (1) criteria to prioritize the issuance of tax credits amongst tax credit applicants in a manner consistent with this part; and
- (2) procedures for documenting the office's application of the criteria described in Subsection (1).

Renumbered and Amended by Chapter 283, 2015 General Session

63N-2-808 Agreements between office and tax credit applicant and life science establishment -- Tax credit certificate.

- (1)
 - (a) The office, with advice from the GO Utah board, may enter into an agreement to grant a tax credit certificate to a tax credit applicant selected in accordance with this part, if the tax credit applicant meets the conditions established in the agreement and under this part.
 - (b) The agreement described in Subsection (1)(a) shall:
 - (i) detail the requirements that the tax credit applicant shall meet prior to receiving a tax credit certificate;
 - (ii) require the tax credit certificate recipient to retain records supporting a claim for a tax credit for at least four years after the tax credit certificate recipient claims a tax credit under this part; and
 - (iii) require the tax credit certificate recipient to submit to audits for verification of the tax credit claimed, including audits by the office and by the State Tax Commission.
- (2)
 - (a) The office, with advice from the GO Utah board, shall enter into an agreement with the life science establishment in which the tax credit applicant invested for purposes of claiming a tax credit.
 - (b) The agreement described in Subsection (2)(a):
 - (i) shall provide the office with a document that expressly and directly authorizes the State Tax Commission to disclose to the office the life science establishment's tax returns and other information that would otherwise be subject to confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code;
 - (ii) shall authorize the Department of Workforce Services to disclose to the office the employment data that the life science establishment submits to the Department of Workforce Services;
 - (iii) shall require the life science establishment to provide the office with the life science establishment's current capitalization tables; and
 - (iv) may require the life science establishment to provide the office with other data that:
 - (A) ensure compliance with the requirements of this chapter; and
 - (B) demonstrate the economic impact of the tax credit applicant's investment in the life science establishment.

Amended by Chapter 282, 2021 General Session

63N-2-809 Issuance of tax credit certificates.

- (1) For a tax credit applicant that seeks to claim a tax credit, the office may issue a tax credit certificate to the tax credit applicant:
 - (a) for the first taxable year for which the tax credit applicant qualifies for the tax credit and enters into an agreement with the office;
 - (b) for two taxable years immediately following the taxable year described in Subsection (1)(a); and
 - (c) for the seven taxable years immediately following the last of the two taxable years described in Subsection (1)(b) if:
 - (i) the agreement with the office described in Section 63N-2-808 includes a provision that the tax credit applicant will make new capital expenditures of at least \$1,000,000,000 in the state; and
 - (ii) the tax credit applicant makes new capital expenditures of at least \$1,000,000,000 in the state in accordance with the agreement with the office described in Section 63N-2-808.
- (2) The office shall provide a duplicate copy of each tax credit certificate to the State Tax Commission.

Renumbered and Amended by Chapter 283, 2015 General Session

63N-2-810 Reports on tax credit certificates.

The office shall include the following information in the annual written report described in Section 63N-4-106:

- (1) the total amount listed on tax credit certificates the office issues under this part;
- (2) the criteria that the office uses in prioritizing the issuance of tax credits amongst tax credit applicants under this part; and
- (3) the economic impact on the state related to providing tax credits under this part.

Amended by Chapter 282, 2021 General Session

63N-2-811 Reports of tax credits.

- (1) Before December 1 of each year, the office shall submit a report to the Governor's Office of Planning and Budget, the Office of the Legislative Fiscal Analyst, and the Division of Finance identifying:
 - (a) the total amount listed on tax credit certificates the office issues under this part; and
 - (b) the criteria that the office uses in prioritizing the issuance of tax credits amongst tax credit applicants.
- (2) By the first business day of each month, the office shall submit a report to the Governor's Office of Planning and Budget, the Office of the Legislative Fiscal Analyst, and the Division of Finance identifying:
 - (a) each new agreement entered into by the office since the last report;
 - (b) the total amount listed on tax credit certificates the office issues under this part; and
 - (c) the criteria that the office uses in prioritizing the issuance of tax credits amongst tax credit applicants.

Amended by Chapter 382, 2021 General Session

Chapter 3 Economic Development Programs

Part 1 Industrial Assistance Account

63N-3-101 Title -- Purpose.

- (1) This chapter is known as "Economic Development Programs."
- (2) This part is known as the "Industrial Assistance Account."
- (3) The Legislature finds and declares that the fostering and development of industry in Utah is a state public purpose necessary to assure the welfare of its citizens, the growth of its economy, and adequate employment for its citizens.

Renumbered and Amended by Chapter 283, 2015 General Session

63N-3-102 Definitions.

As used in this part:

- (1) "Administrator" means the executive director or the executive director's designee.
- (2) "Economic opportunities" means unique business situations or community circumstances, including the development of recreation infrastructure and the promotion of the high tech sector in the state, which lend themselves to the furtherance of the economic interests of the state by providing a catalyst or stimulus to the growth or retention, or both, of commerce and industry in the state, including retention of companies whose relocation outside the state would have a significant detrimental economic impact on the state as a whole, regions of the state, or specific components of the state as determined by the GO Utah board.
- (3) "Restricted Account" means the restricted account known as the Industrial Assistance Account created in Section 63N-3-103.
- (4) "Targeted industry" means an industry or group of industries targeted by the GO Utah board under Section 63N-3-111, for economic development in the state.
- (5) "Talent development grant" means a grant awarded under Section 63N-3-112.

Amended by Chapter 282, 2021 General Session

63N-3-103 Industrial Assistance Account created -- Uses -- Administrator duties -- Costs.

- (1) There is created a restricted account within the General Fund known as the "Industrial Assistance Account".
- (2) The administrator shall administer the restricted account.
- (3) The administrator may hire appropriate support staff to perform the duties required under this section.
- (4) The cost of administering the restricted account shall be paid from money in the restricted account.
- (5) Interest accrued from investment of money in the restricted account shall remain in the restricted account.
- (6) The office shall review the activities and progress of grant recipients under this chapter on a regular basis and, as part of the office's annual written report described in Section 63N-1a-306, report on the economic impact of activities funded by each grant.

Amended by Chapter 282, 2021 General Session

63N-3-105 Qualification for assistance.

- (1)
 - (a) Except as provided in Section 63N-3-109, the administrator shall determine which industries, companies, and individuals qualify to receive money from the Industrial Assistance Account.
 - (b) Except as provided by Subsection (2), to qualify for financial assistance from the restricted account, an applicant shall:
 - (i) demonstrate to the satisfaction of the administrator that the applicant will expend funds in the state with employees, vendors, subcontractors, or other businesses in an amount proportional with money provided from the restricted account at a minimum ratio of one to one per year or other more stringent requirements as established on a per project basis by the administrator;
 - (ii) demonstrate to the satisfaction of the administrator the applicant's ability to sustain economic activity in the state sufficient to repay, by means of cash or appropriate credits, the loan provided by the restricted account; and
 - (iii) satisfy other criteria the administrator considers appropriate.
- (2)
 - (a) The administrator may exempt an applicant from the requirements of Subsection (1)(a) or (b) if:
 - (i) the applicant is part of a targeted industry;
 - (ii) the applicant is a quasi-public corporation organized under Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act, or Title 63E, Chapter 2, Independent Corporations Act, and its operations, as demonstrated to the satisfaction of the administrator, will provide significant economic stimulus to the growth of commerce and industry in the state; or
 - (iii) the applicant is an entity offering an economic opportunity under Section 63N-3-109.
 - (b) The administrator may not exempt the applicant from the requirement under Subsection 63N-3-106(2)(b) that the loan be structured so that the repayment or return to the state equals at least the amount of the assistance together with an annual interest charge.
- (3) The administrator shall:
 - (a) for applicants not described in Subsection (2)(a):
 - (i) make findings as to whether or not each applicant has satisfied each of the conditions set forth in Subsection (1); and
 - (ii) monitor the continued compliance by each applicant with each of the conditions set forth in Subsection (1) for five years;
 - (b) monitor the compliance by each applicant with the provisions of any contract or agreement entered into between the applicant and the state as provided in Section 63N-3-107; and
 - (c) make funding decisions based upon appropriate findings and compliance.

Amended by Chapter 282, 2021 General Session

63N-3-106 Loans, grants, and assistance -- Repayment -- Earned credits.

- (1)
 - (a) A company that qualifies under Section 63N-3-105 may receive loans, grants, or other financial assistance from the Industrial Assistance Account for expenses related to establishment, relocation, or development of industry in Utah.
 - (b) An entity offering an economic opportunity that qualifies under Section 63N-3-109 may:

- (i) receive loans, grants, or other financial assistance from the restricted account for expenses related to the establishment, relocation, retention, or development of industry in the state; and
 - (ii) include infrastructure or other economic development precursor activities that act as a catalyst and stimulus for economic activity likely to lead to the maintenance or enlargement of the state's tax base.
- (2)
 - (a) Subject to Subsection (2)(b), the administrator has authority to determine the structure, amount, and nature of any loan, grant, or other financial assistance from the restricted account.
 - (b) Loans made under Subsection (2)(a) shall be structured so the intended repayment or return to the state, including cash or credit, equals at least the amount of the assistance together with an annual interest charge as negotiated by the administrator.
 - (c) Payments resulting from grants awarded from the restricted account shall be made only after the administrator has determined that the company has satisfied the conditions upon which the payment or earned credit was based.
- (3)
 - (a)
 - (i) Except as provided in Subsection (3)(b), the administrator may provide for a system of earned credits that may be used to support grant payments or in lieu of cash repayment of a restricted account loan obligation.
 - (ii) The value of the credits described in Subsection (3)(a)(i) shall be based on factors determined by the administrator, including:
 - (A) the number of Utah jobs created;
 - (B) the increased economic activity in Utah; or
 - (C) other events and activities that occur as a result of the restricted account assistance.
 - (b)
 - (i) The administrator shall provide for a system of credits to be used to support grant payments or in lieu of cash repayment of a restricted account loan when loans are made to a company creating an economic impediment.
 - (ii) The value of the credits described in Subsection (3)(b)(i) shall be based on factors determined by the administrator, including:
 - (A) the number of Utah jobs created;
 - (B) the increased economic activity in Utah; or
 - (C) other events and activities that occur as a result of the restricted account assistance.
- (4)
 - (a) A cash loan repayment or other cash recovery from a company receiving assistance under this section, including interest, shall be deposited into the restricted account.
 - (b) The administrator and the Division of Finance shall determine the manner of recognizing and accounting for the earned credits used in lieu of loan repayments or to support grant payments as provided in Subsection (3).
- (5)
 - (a)
 - (i) At the end of each fiscal year, the Division of Finance shall set aside the balance of the General Fund revenue surplus as defined in Section 63J-1-312 after the transfers of General Fund revenue surplus described in Subsection (5)(b) to the Industrial Assistance Account in an amount equal to any credit that has accrued under this part.

- (ii) The set aside under Subsection (5)(a)(i) shall be capped at \$50,000,000, at which time no subsequent contributions may be made and any interest accrued above the \$50,000,000 cap shall be deposited into the General Fund.
- (b) The set aside required by Subsection (5)(a) shall be made after the transfer of surplus General Fund revenue surplus is made:
 - (i) to the Medicaid Growth Reduction and Budget Stabilization Restricted Account, as provided in Section 63J-1-315;
 - (ii) to the General Fund Budget Reserve Account, as provided in Section 63J-1-312; and
 - (iii) to the Wildland Fire Suppression Fund or State Disaster Recovery Restricted Account, as provided in Section 63J-1-314.
- (c) These credit amounts may not be used for purposes of the restricted account as provided in this part until appropriated by the Legislature.

Amended by Chapter 282, 2021 General Session

63N-3-107 Agreements.

The administrator shall enter into agreements with each successful applicant that have specific terms and conditions for each loan or assistance, including:

- (1) repayment schedules;
- (2) interest rates;
- (3) specific economic activity required to qualify for the loan or assistance or for repayment credits;
- (4) collateral or security, if any; and
- (5) other terms and conditions considered appropriate by the administrator.

Renumbered and Amended by Chapter 283, 2015 General Session

63N-3-109 Financial assistance to entities offering economic opportunities.

- (1) Subject to the duties and powers of the GO Utah board under Section 63N-1b-202, the administrator may provide money from the Industrial Assistance Account to an entity offering an economic opportunity if that entity:
 - (a) applies to the administrator in a form approved by the administrator; and
 - (b) meets the qualifications of Subsection (2).
- (2) As part of an application for receiving money under this section, an applicant shall:
 - (a) demonstrate to the satisfaction of the administrator the nature of the economic opportunity and the related benefit to the economic well-being of the state by providing evidence documenting the logical and compelling linkage, either direct or indirect, between the expenditure of money necessitated by the economic opportunity and the likelihood that the state's tax base, regions of the state's tax base, or specific components of the state's tax base will not be reduced but will be maintained or enlarged;
 - (b) demonstrate how the funding request will act in concert with other state, federal, or local agencies to achieve the economic benefit;
 - (c) demonstrate how the funding request will act in concert with free market principles; and
 - (d) satisfy other criteria the administrator considers appropriate.
- (3) Before awarding any money under this section, the administrator shall:
 - (a) make findings as to whether an applicant has satisfied the requirements of Subsection (2);
 - (b) establish benchmarks and timeframes in which progress toward the completion of the agreed upon activity is to occur;

- (c) monitor compliance by an applicant with any contract or agreement entered into by the applicant and the state as provided by Section 63N-3-107; and
- (d) make funding decisions based upon appropriate findings and compliance.

Amended by Chapter 282, 2021 General Session

63N-3-111 Annual policy considerations.

- (1)
 - (a) The GO Utah board shall determine annually which industries or groups of industries shall be targeted industries as defined in Section 63N-3-102.
 - (b) The office shall make recommendations to state and federal agencies, local governments, the governor, and the Legislature regarding policies and initiatives that promote the economic development of targeted industries.
 - (c) The office may create one or more voluntary advisory committees that may include public and private stakeholders to solicit input on policy guidance and best practices in encouraging the economic development of targeted industries.
- (2) In evaluating the economic impact of applications for assistance, the GO Utah board shall use an econometric cost-benefit model.
- (3) The GO Utah board may establish:
 - (a) minimum interest rates to be applied to loans granted that reflect a fair social rate of return to the state comparable to prevailing market-based rates such as the prime rate, U.S. Government T-bill rate, or bond coupon rate as paid by the state, adjusted by social indicators such as the rate of unemployment; and
 - (b) minimum applicant expense ratios, as long as they are at least equal to those required under Subsection 63N-3-105(1)(b).

Amended by Chapter 282, 2021 General Session

Amended by Chapter 382, 2021 General Session

63N-3-112 Talent development grants.

- (1) A for-profit business that is creating new incremental high paying jobs in the state, may apply to receive a talent development grant from the restricted account.
- (2) In accordance with the provisions of this section and in consultation with the board, the administrator may award up to \$10,000 per new job created.
- (3) The administrator shall designate an application process for a business to apply for the grant.
- (4) A business may apply to receive a grant only after each employee has been employed at qualifying wage levels for at least 12 consecutive months.
- (5) Money granted for a talent development grant under this section shall be deducted from any other money or incentive awarded by the office to the business.
- (6) Grants awarded under this section are only to reimburse a business for the costs incurred to recruit, hire, train, and otherwise employ an employee in a newly created job.
- (7) A business shall submit a hiring and training plan detailing what the grant money will be used for as part of the application process.
- (8) The administrator may only grant an award up to an amount that is no more than 25% of the estimated costs to be incurred by the business for the costs in the hiring and training plan.

Enacted by Chapter 282, 2021 General Session

Part 2

Technology Commercialization and Innovation Act

63N-3-204 Administration -- Grants and loans.

- (1) The office shall administer this part.
- (2)
 - (a)
 - (i) The office may award Technology Commercialization and Innovation Program grants or issue loans under this part to an applicant that is:
 - (A) an institution of higher education;
 - (B) a licensee; or
 - (C) a small business.
 - (ii) If loans are issued under Subsection (2)(a)(i), the Division of Finance may set up a fund or account as necessary for the proper accounting of the loans.
 - (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office shall make rules for a process to determine whether an institution of higher education that receives a grant under this part must return the grant proceeds or a portion of the grant proceeds if the technology that is developed with the grant proceeds is licensed to a licensee that:
 - (i) does not maintain a manufacturing or service location in the state from which the licensee or a sublicensee exploits the technology; or
 - (ii) initially maintains a manufacturing or service location in the state from which the licensee or a sublicensee exploits the technology, but within five years after issuance of the license the licensee or sublicensee transfers the manufacturing or service location for the technology to a location out of the state.
 - (c) A repayment by an institution of higher education of grant proceeds or a portion of the grant proceeds may only come from the proceeds of the license established between the licensee and the institution of higher education.
 - (d)
 - (i) An applicant that is a licensee or small business that receives a grant under this part shall return the grant proceeds or a portion of the grant proceeds to the office if the applicant:
 - (A) does not maintain a manufacturing or service location in the state from which the applicant exploits the technology; or
 - (B) initially maintains a manufacturing or service location in the state from which the applicant exploits the technology, but within five years after issuance of the grant, the applicant transfers the manufacturing or service location for the technology to an out-of-state location.
 - (ii) A repayment by an applicant shall be prorated based on the number of full years the applicant operated in the state from the date of the awarded grant.
 - (iii) A repayment by a licensee that receives a grant may only come from the proceeds of the license to that licensee.
- (3)
 - (a) Funding allocations shall be made by the office with the advice of the GO Utah board.
 - (b) Each proposal shall receive the best available outside review.
- (4)

- (a) In considering each proposal, the office shall weigh technical merit, the level of matching funds from private and federal sources, and the potential for job creation and economic development.
- (b) Proposals or consortia that combine and coordinate related research at two or more institutions of higher education shall be encouraged.
- (5) The office shall review the activities and progress of grant recipients on a regular basis and, as part of the office's annual written report described in Section 63N-1a-306, report on the accomplishments and direction of the Technology Commercialization and Innovation Program.
- (6)
 - (a) On or before August 1, 2018, the office shall provide a written analysis and recommendations concerning the usefulness of the Technology Commercialization and Innovation Program described in this part, including whether:
 - (i) the program is beneficial to the state and should continue; and
 - (ii) other office programs or programs in other agencies could provide similar benefits to the state more effectively or at a lower cost.
 - (b) The written analysis and recommendations described in this Subsection (6) shall be provided to:
 - (i) the Business, Economic Development, and Labor Appropriations Subcommittee;
 - (ii) the Economic Development and Workforce Services Interim Committee;
 - (iii) the Business and Labor Interim Committee; and
 - (iv) the governor.

Amended by Chapter 282, 2021 General Session

Part 4

Transient Room Tax Fund Act

63N-3-401 Title.

This part is known as the "Transient Room Tax Fund Act."

Renumbered and Amended by Chapter 283, 2015 General Session

63N-3-402 Definitions.

As used in this part, "fund" means the Transient Room Tax Fund created by Section 63N-3-403.

Renumbered and Amended by Chapter 283, 2015 General Session

63N-3-403 Transient Room Tax Fund -- Source of revenues -- Interest -- Expenditure or pledge of revenues.

- (1) There is created an expendable special revenue fund known as the Transient Room Tax Fund.
- (2)
 - (a) The fund shall be funded by the portion of the sales and use tax described in Subsection 59-12-301(2).
 - (b)
 - (i) The fund shall earn interest.
 - (ii) Any interest earned on fund money shall be deposited into the fund.

- (3)
- (a) Subject to Subsection (3)(b), the executive director shall expend or pledge the money deposited into the fund:
 - (i) to mitigate the impacts of traffic and parking relating to a convention facility within a county of the first class;
 - (ii) for a purpose listed in Section 17-31-2, except that any requirements in Section 17-31-2 for the expenditure of money do not apply; or
 - (iii) for a combination of Subsections (3)(a)(i) and (ii).
 - (b) The executive director may not expend more than \$20,000,000 in total to mitigate the impacts of traffic and parking relating to a convention facility within a county of the first class.

Renumbered and Amended by Chapter 283, 2015 General Session

Part 6

Housing and Transit Reinvestment Zone Act

63N-3-601 Title.

This part is known as the "Housing and Transit Reinvestment Zone Act."

Enacted by Chapter 411, 2021 General Session

63N-3-602 Definitions.

As used in this part:

- (1) "Affordable housing" means the same as that term is defined in Section 11-38-102.
- (2) "Agency" means the same as that term is defined in Section 17C-1-102.
- (3) "Base taxable value" means a property's taxable value as shown upon the assessment roll last equalized during the base year.
- (4) "Base year" means, for a proposed housing and transit reinvestment zone area, a year determined by the last equalized tax roll before the adoption of the housing and transit reinvestment zone.
- (5)
 - (a) "Commuter rail" means a heavy-rail passenger rail transit facility operated by a large public transit district.
 - (b) "Commuter rail" does not include a light-rail passenger rail facility of a large public transit district.
- (6) "Commuter rail station" means a station, stop, or terminal along an existing commuter rail line, or along an extension to an existing commuter rail line or new commuter rail line that is included in a metropolitan planning organization's adopted long-range transportation plan.
- (7) "Dwelling unit" means one or more rooms arranged for the use of one or more individuals living together, as a single housekeeping unit normally having cooking, living, sanitary, and sleeping facilities.
- (8) "Enhanced development" means the construction of mixed uses including housing, commercial uses, and related facilities, at an average density of 50 dwelling units or more per acre on the developable acres.
- (9) "Enhanced development costs" means extra costs associated with structured parking costs, vertical construction costs, horizontal construction costs, life safety costs, structural costs,

- conveyor or elevator costs, and other costs incurred due to the increased height of buildings or enhanced development.
- (10) "Horizontal construction costs" means the additional costs associated with earthwork, over excavation, utility work, transportation infrastructure, and landscaping to achieve enhanced development in the housing and transit reinvestment zone.
 - (11) "Housing and transit reinvestment zone" means a housing and transit reinvestment zone created pursuant to this part.
 - (12) "Housing and transit reinvestment zone committee" means a housing and transit reinvestment zone committee created pursuant to Section 63N-3-605.
 - (13) "Large public transit district" means the same as that term is defined in Section 17B-2a-802.
 - (14) "Metropolitan planning organization" means the same as that term is defined in Section 72-1-208.5.
 - (15) "Mixed use development" means development with a mix of multi-family residential use and at least one additional land use.
 - (16) "Municipality" means the same as that term is defined in Section 10-1-104.
 - (17) "Participant" means the same as that term is defined in Section 17C-1-102.
 - (18) "Participation agreement" means the same as that term is defined in Section 17C-1-102.
 - (19) "Public transit county" means a county that has created a small public transit district.
 - (20) "Public transit hub" means a public transit depot or station where four or more routes serving separate parts of the county-created transit district stop to transfer riders between routes.
 - (21) "Sales and use tax base year" means a sales and use tax year determined by the first year pertaining to the tax imposed in Section 59-12-103 after the sales and use tax boundary for a housing and transit reinvestment zone is established.
 - (22) "Sales and use tax boundary" means a boundary created as described in Section 63N-3-604, based on state sales and use tax collection that corresponds as closely as reasonably practicable to the housing and transit reinvestment zone boundary.
 - (23) "Sales and use tax increment" means the difference between:
 - (a) the amount of state sales and use tax revenue generated each year following the sales and use tax base year by the sales and use tax from the area within a housing and transit reinvestment zone designated in the housing and transit reinvestment zone proposal as the area from which sales and use tax increment is to be collected; and
 - (b) the amount of state sales and use tax revenue that was generated from that same area during the sales and use tax base year.
 - (24) "Sales and use tax revenue" means revenue that is generated from the tax imposed under Section 59-12-103.
 - (25) "Small public transit district" means the same as that term is defined in Section 17B-2a-802.
 - (26) "Tax commission" means the State Tax Commission created in Section 59-1-201.
 - (27) "Tax increment" means the difference between:
 - (a) the amount of property tax revenue generated each tax year by a taxing entity from the area within a housing and transit reinvestment zone designated in the housing and transit reinvestment zone proposal as the area from which tax increment is to be collected, using the current assessed value and each taxing entity's current certified tax rate as defined in Section 59-2-924; and
 - (b) the amount of property tax revenue that would be generated from that same area using the base taxable value and each taxing entity's current certified tax rate as defined in Section 59-2-924.
 - (28) "Taxing entity" means the same as that term is defined in Section 17C-1-102.

- (29) "Vertical construction costs" means the additional costs associated with construction above four stories and structured parking to achieve enhanced development in the housing and transit reinvestment zone.

Enacted by Chapter 411, 2021 General Session

63N-3-603 Applicability, requirements, and limitations on a housing and transit reinvestment zone.

- (1) A housing and transit reinvestment zone proposal created under this part shall promote the following objectives:
- (a) higher utilization of public transit;
 - (b) increasing availability of housing, including affordable housing;
 - (c) conservation of water resources through efficient land use;
 - (d) improving air quality by reducing fuel consumption and motor vehicle trips;
 - (e) encouraging transformative mixed-use development and investment in transportation and public transit infrastructure in strategic areas;
 - (f) strategic land use and municipal planning in major transit investment corridors as described in Subsection 10-9a-403(2); and
 - (g) increasing access to employment and educational opportunities.
- (2) In order to accomplish the objectives described in Subsection (1), a municipality or public transit county that initiates the process to create a housing and transit reinvestment zone as described in this part shall ensure that the proposal for a housing and transit reinvestment zone includes:
- (a) except as provided in Subsection (3), at least 10% of the proposed housing units within the housing and transit reinvestment zone are affordable housing units;
 - (b) a dedication of at least 51% of the developable area within the housing and transit reinvestment zone to residential development with an average of 50 multi-family dwelling units per acre or greater; and
 - (c) mixed-use development.
- (3) A municipality or public transit county that, at the time the housing and transit reinvestment zone proposal is approved by the housing and transit reinvestment zone committee, meets the affordable housing guidelines of the United States Department of Housing and Urban Development at 60% area median income is exempt from the requirement described in Subsection (2)(a).
- (4) A municipality or public transit county may only propose a housing and transit reinvestment zone that:
- (a) subject to Subsection (5):
 - (i)
 - (A) for a municipality, does not exceed a 1/3 mile radius of a commuter rail station; or
 - (B) for a public transit county, does not exceed a 1/3 mile radius of a public transit hub; and
 - (ii) has a total area of no more than 125 noncontiguous square acres;
 - (b) subject to Section 63N-3-607, proposes the capture of a maximum of 80% of each taxing entity's tax increment above the base year for a term of no more than 25 consecutive years on each parcel within a 45-year period not to exceed the tax increment amount approved in the housing and transit reinvestment zone proposal; and
 - (c) the commencement of collection of tax increment, for all or a portion of the housing and transit reinvestment zone, will be triggered by providing notice as described in Subsection (6).

- (5) If a parcel is bisected by the 1/3 mile radius, the full parcel may be included as part of the housing and transit reinvestment zone area and will not count against the limitations described in Subsection (4)(a).
- (6) The notice of commencement of collection of tax increment required in Subsection (4)(c) shall be sent by mail or electronically to:
 - (a) the tax commission;
 - (b) the State Board of Education;
 - (c) the state auditor;
 - (d) the auditor of the county in which the housing and transit reinvestment zone is located;
 - (e) each taxing entity affected by the collection of tax increment from the housing and transit reinvestment zone; and
 - (f) the Governor's Office of Economic Opportunity.

Amended by Chapter 3, 2021 Special Session 1

63N-3-604 Process for a proposal of a housing and transit reinvestment zone -- Analysis.

- (1) Subject to approval of the housing and transit reinvestment zone committee as described in Section 63N-3-605, in order to create a housing and transit reinvestment zone, a municipality or public transit county that has general land use authority over the housing and transit reinvestment zone area, shall:
 - (a) prepare a proposal for the housing and transit reinvestment zone that:
 - (i) demonstrates that the proposed housing and transit reinvestment zone will meet the objectives described in Subsection 63N-3-603(1);
 - (ii) explains how the municipality or public transit county will achieve the requirements of Subsection 63N-3-603(2)(a);
 - (iii) defines the specific transportation infrastructure needs, if any, and proposed improvements;
 - (iv) defines the boundaries of:
 - (A) the housing and transit reinvestment zone; and
 - (B) the sales and use tax boundary corresponding to the housing and transit reinvestment zone boundary, as described in Section 63N-3-610;
 - (v) identifies any development impediments that prevent the development from being a market-rate investment and proposed strategies for addressing each one;
 - (vi) describes the proposed development plan, including the requirements described in Subsections 63N-3-603(2) and (4);
 - (vii) establishes a base year and collection period to calculate the tax increment within the housing and transit reinvestment zone;
 - (viii) establishes a sales and use tax base year to calculate the sales and use tax increment within the housing and transit reinvestment zone;
 - (ix) describes projected maximum revenues generated and the amount of tax increment capture from each taxing entity and proposed expenditures of revenue derived from the housing and transit reinvestment zone;
 - (x) includes an analysis of other applicable or eligible incentives, grants, or sources of revenue that can be used to reduce the finance gap;
 - (xi) proposes a finance schedule to align expected revenue with required financing costs and payments; and
 - (xii) provides a pro-forma for the planned development including the cost differential between surface parked multi-family development and enhanced development that satisfies the requirements described in Subsections 63N-3-603(2), (3), and (4); and

- (b) submit the housing and transit reinvestment zone proposal to the Governor's Office of Economic Opportunity.
- (2) Before submitting the proposed housing and transit reinvestment zone to the Governor's Office of Economic Opportunity as described in Subsection (1)(b), the municipality or public transit county proposing the housing and transit reinvestment zone shall ensure that the area of the proposed housing and transit reinvestment zone is zoned in such a manner to accommodate the requirements of a housing and transit reinvestment zone described in this section and the proposed development.
- (3)
 - (a) After receiving the proposal as described in Subsection (1)(b), the Governor's Office of Economic Opportunity shall, at the expense of the proposing municipality or public transit county as described in Subsection (5), contract with an independent entity to perform the gap analysis described in Subsection (3)(b).
 - (b) The gap analysis required in Subsection (3)(a) shall include:
 - (i) a description of the planned development;
 - (ii) a market analysis relative to other comparable project developments included in or adjacent to the municipality or public transit county absent the proposed housing and transit reinvestment zone;
 - (iii) an evaluation of the proposal to and a determination of the adequacy and efficiency of the proposal; and
 - (iv) based on the market analysis and other findings, an opinion relative to the amount of potential public financing reasonably determined to be necessary to achieve the objectives described in Subsection 63N-3-603(1).
- (4) After receiving the results from the analysis described in Subsection (3)(b), the municipality or public transit county proposing the housing and transit reinvestment zone may:
 - (a) amend the housing and transit reinvestment zone proposal based on the findings of the analysis described in Subsection (3)(b) and request that the Governor's Office of Economic Opportunity submit the amended housing and transit reinvestment zone proposal to the housing and transit reinvestment zone committee; or
 - (b) request that the Governor's Office of Economic Opportunity submit the original housing and transit reinvestment zone proposal to the housing and transit reinvestment zone committee.
- (5)
 - (a) The Governor's Office of Economic Opportunity may accept, as a dedicated credit, up to \$20,000 from a municipality or public transit county for the costs of the gap analysis described in Subsection (3)(b).
 - (b) The Governor's Office of Economic Opportunity may expend funds received from a municipality or public transit county as dedicated credits to pay for the costs associated with the gap analysis described in Subsection (3)(b).

Enacted by Chapter 411, 2021 General Session

63N-3-605 Housing and Transit Reinvestment Zone Committee -- Creation.

- (1) For any housing and transit reinvestment zone proposed under this part, there is created a housing and transit reinvestment zone committee with membership described in Subsection (2).
- (2) Each housing and transit reinvestment zone committee shall consist of the following members:
 - (a) one representative from the Governor's Office of Economic Opportunity, designated by the executive director of the Governor's Office of Economic Opportunity;

- (b) one representative from each municipality that is a party to the proposed housing and transit reinvestment zone, designated by the chief executive officer of each respective municipality;
 - (c) one representative from the Department of Transportation created in Section 72-1-201, designated by the executive director of the Department of Transportation;
 - (d) one representative from a large public transit district that serves the proposed housing and transit reinvestment zone area, designated by the chair of the board of trustees of a large public transit district;
 - (e) one representative of each relevant metropolitan planning organization, designated by the chair of the metropolitan planning organization;
 - (f) one member designated by the president of the Senate;
 - (g) one member designated by the speaker of the House of Representatives;
 - (h) one member designated by the chair of the State Board of Education;
 - (i) one member designated by the chief executive officer of each county affected by the housing and transit reinvestment zone;
 - (j) one representative designated by the school superintendent from the school district affected by the housing and transit reinvestment zone; and
 - (k) one representative, representing the largest participating local taxing entity, after the municipality, county, and school district.
- (3) The individual designated by the Governor's Office of Economic Opportunity as described in Subsection (2)(a) shall serve as chair of the housing and transit reinvestment zone committee.
- (4)
- (a) A majority of the members of the housing and transit reinvestment zone committee constitutes a quorum of the housing and transit reinvestment zone committee.
 - (b) An action by a majority of a quorum of the housing and transit reinvestment zone committee is an action of the housing and transit reinvestment zone committee.
- (5) After the Governor's Office of Economic Opportunity receives the results of the analysis described in Section 63N-3-604, and after the Governor's Office of Economic Opportunity has received a request from the submitting municipality or public transit county to submit the housing and transit reinvestment zone proposal to the housing and transit reinvestment zone committee, the Governor's Office of Economic Opportunity shall notify each of the entities described in Subsection (2) of the formation of the housing and transit reinvestment zone committee.
- (6)
- (a) The chair of the housing and transit reinvestment zone committee shall convene a public meeting to consider the proposed housing and transit reinvestment zone.
 - (b) A meeting of the housing and transit reinvestment zone committee is subject to Title 52, Chapter 4, Open and Public Meetings Act.
- (7)
- (a) The proposing municipality or public transit county shall present the housing and transit reinvestment zone proposal to the housing and transit reinvestment zone committee in a public meeting.
 - (b) The housing and transit reinvestment zone committee shall:
 - (i) evaluate and verify whether the elements of a housing and transit reinvestment zone described in Subsections 63N-3-603(2) and (4) have been met; and
 - (ii) evaluate the proposed housing and transit reinvestment zone relative to the analysis described in Subsection 63N-3-604(2).
- (8) The housing and transit reinvestment zone committee may:

- (a) request changes to the housing and transit reinvestment zone proposal based on the analysis described in Section 63N-3-604; or
 - (b) vote to approve or deny the proposal.
- (9) If approved by the committee:
- (a) the proposed housing and transit reinvestment zone is established according to the terms of the housing and transit reinvestment zone proposal; and
 - (b) affected local taxing entities are required to participate according to the terms of the housing and transit reinvestment zone proposal.
- (10) A housing and transit reinvestment zone proposal may be amended by following the same procedure as approving a housing and transit reinvestment zone proposal.

Enacted by Chapter 411, 2021 General Session

63N-3-606 Notice requirements.

- (1) In approving a housing and transit reinvestment zone proposal the housing and transit reinvestment zone committee shall follow the hearing and notice requirements for creating a housing and transit reinvestment zone area proposal.
- (2) Within 30 days after the housing and transit reinvestment zone committee approves a proposed housing and transit reinvestment zone, the municipality or public transit county shall:
 - (a) record with the recorder of the county in which the housing and transit reinvestment zone is located a document containing:
 - (i) a description of the land within the housing and transit reinvestment zone;
 - (ii) a statement that the proposed housing and transit reinvestment zone has been approved; and
 - (iii) the date of adoption;
 - (b) transmit a copy of the description of the land within the housing and transit reinvestment zone and an accurate map or plat indicating the boundaries of the housing and transit reinvestment zone to the Utah Geospatial Resource Center created under Section 63A-16-505; and
 - (c) transmit a copy of the approved housing and transit reinvestment zone proposal, map, and description of the land within the housing and transit reinvestment zone, to:
 - (i) the auditor, recorder, attorney, surveyor, and assessor of the county in which any part of the housing and transit reinvestment zone is located;
 - (ii) the officer or officers performing the function of auditor or assessor for each taxing entity that does not use the county assessment roll or collect the taxing entity's taxes through the county;
 - (iii) the legislative body or governing board of each taxing entity;
 - (iv) the tax commission; and
 - (v) the State Board of Education.

Enacted by Chapter 411, 2021 General Session

63N-3-607 Payment, use, and administration of revenue from a housing and transit reinvestment zone.

- (1) A municipality or public transit county may receive and use tax increment and housing and transit reinvestment zone funds in accordance with this part.
- (2)
 - (a) A county that collects property tax on property located within a housing and transit reinvestment zone shall, in accordance with Section 59-2-1365, distribute to the municipality

or public transit county any tax increment the municipality or public transit county is authorized to receive up to the maximum approved by the housing and transit reinvestment zone committee.

- (b) Tax increment distributed to a municipality or public transit county in accordance with Subsection (2)(a) is not revenue of the taxing entity or municipality or public transit county.
- (c)
 - (i) Tax increment paid to the municipality or public transit county are housing and transit reinvestment zone funds and shall be administered by an agency created by the municipality or public transit county within which the housing and transit reinvestment zone is located.
 - (ii) Before an agency may receive housing and transit reinvestment zone funds from the municipality or public transit county, the municipality or public transit county and the agency shall enter into an interlocal agreement with terms that:
 - (A) are consistent with the approval of the housing and transit reinvestment zone committee; and
 - (B) meet the requirements of Section 63N-3-603.
- (3)
 - (a) A municipality or public transit county and agency shall use housing and transit reinvestment zone funds within, or for the direct benefit of, the housing and transit reinvestment zone.
 - (b) If any housing and transit reinvestment zone funds will be used outside of the housing and transit reinvestment zone there must be a finding in the approved proposal for a housing and transit reinvestment zone that the use of the housing and transit reinvestment zone funds outside of the housing and transit reinvestment zone will directly benefit the housing and transit reinvestment zone.
- (4) A municipality or public transit county shall use housing and transit reinvestment zone funds to achieve the purposes described in Subsections 63N-3-603(1) and (2), by paying all or part of the costs of any of the following:
 - (a) income targeted housing costs;
 - (b) structured parking within the housing and transit reinvestment zone;
 - (c) enhanced development costs;
 - (d) horizontal construction costs;
 - (e) vertical construction costs;
 - (f) land purchase costs within the housing and transit reinvestment zone; or
 - (g) the costs of the municipality or public transit county to create and administer the housing and transit reinvestment zone, which may not exceed 1% of the total housing and transit reinvestment zone funds, plus the costs to complete the gap analysis described in Subsection 63N-3-604(3).
- (5) Housing and transit reinvestment zone funds may be paid to a participant, if the agency and participant enter into a participation agreement which requires the participant to utilize the housing and transit reinvestment zone funds as allowed in this section.
- (6) Housing and transit reinvestment zone funds may be used to pay all of the costs of bonds issued by the municipality or public transit county in accordance with Title 17C, Chapter 1, Part 5, Agency Bonds, including the cost to issue and repay the bonds including interest.
- (7) A municipality or public transit county may create one or more public infrastructure districts within the housing and transit reinvestment zone under Title 17B, Chapter 2a, Part 12, Public Infrastructure District Act, and pledge and utilize the housing and transit reinvestment zone funds to guarantee the payment of public infrastructure bonds issued by a public infrastructure district.

Enacted by Chapter 411, 2021 General Session

63N-3-608 Applicability to an existing community reinvestment project.

For a housing and transit reinvestment zone created under this part that overlaps any portion of an existing inactive industrial site community reinvestment project area plan created pursuant to Title 17C, Limited Purpose Local Government Entities - Community Reinvestment Agency Act:

- (1) if the community reinvestment project area plan captures less than 80% of the tax increment from a taxing entity, or if a taxing entity is not participating in the community reinvestment project area plan, the housing and transit reinvestment zone may capture the difference between:
 - (a) 80%; and
 - (b) the percentage of tax increment captured pursuant to the community reinvestment project area plan; and
- (2) if a community reinvestment project area plan expires before the housing and transit reinvestment zone, the housing and transit reinvestment zone may capture the tax increment allocated to the community reinvestment project area plan for any remaining portion of the term of the housing and transit reinvestment zone.

Enacted by Chapter 411, 2021 General Session

63N-3-609 Tax increment protections.

- (1) Upon petition by a participating taxing entity or on the initiative of the housing and transit reinvestment zone committee creating a housing and transit reinvestment zone, a housing and transit reinvestment zone may suspend or terminate the collection of tax increment in a housing and transit reinvestment zone if the housing and transit reinvestment zone committee determines, by clear and convincing evidence, presented in a public meeting of the housing and transit reinvestment zone committee, that:
 - (a) a substantial portion of the tax increment collected in the housing and transit reinvestment zone has not or will not be used for the purposes provided in Section 63N-3-607; and
 - (b)
 - (i) the housing and transit reinvestment zone has no indebtedness; or
 - (ii) the housing and transit reinvestment zone has no binding financial obligations.
- (2) A housing and transit reinvestment zone may not collect tax increment in excess of the tax increment projections or limitations set forth in the housing and transit reinvestment proposal.
- (3) The agency administering the tax increment collected in a housing and transit reinvestment zone under Subsection 63N-3-607(2)(c), shall have standing in a court with proper jurisdiction to enforce provisions of the housing and transit reinvestment zone proposal, participation agreements, and other agreements for the use of the tax increment collected.
- (4) The agency administering tax increment from a housing and transit reinvestment zone under Subsection 63N-3-607(2)(c) which is collecting tax increment shall follow the reporting requirements described in Section 17C-1-603 and the audit requirements described in Sections 17C-1-604 and 17C-1-605.
- (5) For each housing and transit reinvestment zone collecting tax increment within a county, the county auditor shall follow the reporting requirement found in Section 17C-1-606.

Enacted by Chapter 411, 2021 General Session

Effective 1/1/2022

63N-3-610 Sales and use tax increment in a housing and transit reinvestment zone.

- (1) A housing and transit reinvestment proposal shall, in consultation with the tax commission:
 - (a) create a sales and use tax boundary as described in Subsection (2); and
 - (b) establish a sales and use tax base year and collection period to calculate and transfer the state sales and use tax increment within the housing and transit reinvestment zone.
- (2)
 - (a) The municipality or public transit county, in consultation with the tax commission, shall establish a sales and use tax boundary that:
 - (i) is based on state sales and use tax collection boundaries; and
 - (ii) follows as closely as reasonably practicable the boundary of the housing and transit reinvestment zone.
 - (b) The municipality or public transit county shall include the sales and use tax boundary in the housing and transit reinvestment zone proposal as described in Section 63N-3-604.
- (3) Beginning one year after the sales and use tax boundary for a housing and transit reinvestment zone is established, the tax commission shall, at least annually, transfer an amount equal to 15% of the sales and use tax increment within an established sales and use tax boundary into the Transit Transportation Investment Fund created in Section 72-2-124.
- (4)
 - (a) The requirement described in Subsection (3) to transfer incremental sales tax revenue shall take effect:
 - (i) on the first day of a calendar quarter; and
 - (ii) after a 90-day waiting period, beginning on the date the commission receives notice from the municipality or public transit county meeting the requirements of Subsection (4)(b).
 - (b) The notice described in Subsection (4)(a) shall include:
 - (i) a statement that the housing and transit reinvestment zone will be established under this part;
 - (ii) the approval date and effective date of the housing and transit reinvestment zone; and
 - (iii) the definitions of the sales and use tax boundary and sales and use tax base year.

Enacted by Chapter 411, 2021 General Session

Part 7
Utah Main Street Program

63N-3-701 Definitions.

As used in this part:

- (1) "Advisory committee" means the Utah Main Street Advisory Committee created in Section 63N-3-703.
- (2) "Center" means the National Main Street Center.
- (3) "Program" means the Utah Main Street Program created in Section 63N-3-702.

Enacted by Chapter 407, 2021 General Session

63N-3-702 Utah Main Street Program.

- (1) The Utah Main Street Program is created within the office to provide resources for the revitalization of downtown or commercial district areas of municipalities in the state.
- (2) To implement the program, the office may:
 - (a) become a member of the National Main Street Center and partner with the center to become the statewide coordinating program for participating municipalities in the state;
 - (b) establish criteria for the designation of one or more local main street programs administered by a county or municipality in the state;
 - (c) consider the recommendations of the advisory committee in designating and implementing local main street programs;
 - (d) provide training and technical assistance to local governments, businesses, property owners, or other organizations that participate in designated local main street programs;
 - (e) subject to appropriations from the Legislature or other funding, provide financial assistance to designated local main street programs; and
 - (f) under the direction of the executive director, appoint full-time staff.
- (3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may make rules establishing the eligibility and reporting criteria for a downtown area to receive a local main street program designation, including requirements for:
 - (a) local government support of the local main street program; and
 - (b) collecting data to measure economic development impact.
- (4) The office shall include in the annual written report described in Section 63N-1a-306, a report of the program's operations and details of which municipalities have received:
 - (a) a local main street program designation; and
 - (b) financial support from the program.

Enacted by Chapter 407, 2021 General Session

63N-3-703 Main Street Program Advisory Committee -- Membership -- Duties.

- (1) There is created in the office the Main Street Program Advisory Committee.
- (2) The advisory committee is composed of the following members appointed by the executive director:
 - (a) a representative of the office who provides administrative oversight of the program;
 - (b) a representative of the office involved in tourism development;
 - (c) a representative of the Department of Cultural and Community Engagement;
 - (d) a representative of the State Historic Preservation Office;
 - (e) a representative of the Utah Department of Transportation;
 - (f) a representative of the Housing and Community Development Division;
 - (g) a representative from a local association of governments;
 - (h) a representative from the private sector involved in a local main street program;
 - (i) a representative of a local main street program; and
 - (j) three representatives from various entities that have an interest or expertise in assisting local main street programs.
- (3) The advisory committee shall advise and make recommendations to the office regarding:
 - (a) the eligibility of applicants for designation as a local main street program;
 - (b) financial assistance requests from designated local main street programs; and
 - (c) improving the effectiveness of the program.
- (4)
 - (a) Except as provided under Subsection (4)(b), each member of the advisory committee appointed under Subsections (2)(g) through (j) shall be appointed for a four-year term.

- (b) The executive director, at the time of appointment or reappointment, may adjust the length of terms to ensure that the terms of approximately half of the members of the advisory committee appointed under Subsections (2)(g) through (j) end every two years.
- (5) The representative of the office appointed under Subsection (2)(a) shall serve as chair of the advisory committee.
- (6) When a vacancy occurs in the membership for any reason, the executive director shall appoint a replacement member.
- (7) A majority of the advisory committee constitutes a quorum for the purpose of conducting advisory committee business and the action of a majority of a quorum constitutes the action of the advisory committee.
- (8) A member may not receive compensation or benefits for the member's service, but a member may receive per diem and travel expenses in accordance with:
 - (a) Section 63A-3-106;
 - (b) Section 63A-3-107; and
 - (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Enacted by Chapter 407, 2021 General Session

Chapter 4

Rural Development Act

Part 1

Center for Rural Development

63N-4-101 Title -- Definitions.

- (1) This chapter is known as the "Rural Development Act."
- (2) As used in this part, "program" means the Rural Development Program created in Section 63N-4-102.

Amended by Chapter 282, 2021 General Session

63N-4-102 Rural Development Program -- Supervision by office.

- (1) There is created within the office the Center for Rural Development.
- (2) The Center for Rural Development is under the administration and general supervision of the office.

Amended by Chapter 282, 2021 General Session

63N-4-103 Purpose of the Center for Rural Development.

The Center for Rural Development is established to:

- (1) foster and support economic development programs and activities for the benefit of rural counties and communities;
- (2) foster and support community, county, and resource management planning programs and activities for the benefit of rural counties and communities;
- (3) foster and support leadership training programs and activities for the benefit of:

- (a) rural leaders in both the public and private sectors;
- (b) economic development and planning personnel; and
- (c) rural government officials;
- (4) foster and support efforts to coordinate and focus the technical and other resources of appropriate institutions of higher education, local governments, private sector interests, associations, nonprofit organizations, federal agencies, and others, in ways that address the economic development, planning, and leadership challenges;
- (5) work to enhance the capacity of GOED to address rural economic development, planning, and leadership training challenges and opportunities by establishing partnerships and positive working relationships with appropriate public and private sector entities, individuals, and institutions; and
- (6) foster government-to-government collaboration and good working relations between state and rural government regarding economic development and planning issues.

Amended by Chapter 282, 2021 General Session

63N-4-104 Duties.

- (1) The Center for Rural Development shall:
 - (a) work to enhance the capacity of the office to address rural economic development, planning, and leadership training challenges and opportunities by establishing partnerships and positive working relationships with appropriate public and private sector entities, individuals, and institutions;
 - (b) work with the GO Utah board to coordinate and focus available resources in ways that address the economic development, planning, and leadership training challenges and priorities in rural Utah;
 - (c) assist in administering the Rural County Grant Program created in Section 17-54-103, including, as described in Subsection 17-54-103(10), compiling reported information regarding the program for inclusion in the office's annual written report described in Section 63N-1a-306; and
 - (d) in accordance with economic development and planning policies set by state government, coordinate relations between:
 - (i) the state;
 - (ii) rural governments;
 - (iii) other public and private groups engaged in rural economic planning and development; and
 - (iv) federal agencies.
- (2)
 - (a) The Center for Rural Development may:
 - (i) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules necessary to carry out its duties;
 - (ii) accept gifts, grants, devises, and property, in cash or in kind, for the benefit of rural Utah citizens; and
 - (iii) use those gifts, grants, devises, and property received under Subsection (2)(a)(ii) for the use and benefit of rural citizens within the state.
 - (b) All resources received under Subsection (2)(a)(ii) shall be deposited in the General Fund as dedicated credits to be used as directed in Subsection (2)(a)(iii).

Amended by Chapter 282, 2021 General Session

63N-4-105 Program manager.

- (1) The executive director shall appoint a director for the Center for Rural Development with the approval of the governor.
- (2) The director of the Center for Rural Development shall be a person knowledgeable in the field of rural economic development and planning and experienced in administration.
- (3) Upon change of the executive director, the director of the Center for Rural Development may not be dismissed without cause for at least 180 days.

Amended by Chapter 282, 2021 General Session

63N-4-106 Annual report.

The office shall include in the annual written report described in Section 63N-1a-306, a report of the program's operations and recommendations.

Amended by Chapter 282, 2021 General Session

Part 2

Business Development for Disadvantaged Rural Communities Act

63N-4-201 Title.

This part is known as the "Business Development for Disadvantaged Rural Communities Act."

Renumbered and Amended by Chapter 283, 2015 General Session

63N-4-202 Definitions.

As used in this part:

- (1) "Business incubator expense" means an expense relating to funding a program that is:
 - (a) designed to provide business support services and resources to one or more business entities within a project area during the business entities' early stages of development; and
 - (b) determined to be a business incubator by the board.
- (2) "Business rehabilitation expense" means an expense relating to the renovation or rehabilitation of an existing building within a project area as determined by the board.
- (3) "Debt service" means the payment of debt service on a bond issued to pay a:
 - (a) business rehabilitation expense relating to a project; or
 - (b) public infrastructure expense relating to a project.
- (4) "Eligible county" means a county of the third, fourth, fifth, or sixth class.
- (5) "Eligible expense" means an expense:
 - (a) incurred by an eligible county;
 - (b) relating to a project; and
 - (c) that is:
 - (i) a business incubator expense;
 - (ii) debt service; or
 - (iii) a public infrastructure expense.
- (6) "Project" means an economic development project:
 - (a) as determined by the board; and

- (b) for which an eligible county applies to the board in accordance with this part for a loan or grant to assist the eligible county in paying an eligible expense.
- (7) "Project area" means the geographic area within which a project is implemented by an eligible county.
- (8) "Public infrastructure expense" means an expense relating to a publicly owned improvement located within a project area if:
 - (a) the expense is:
 - (i) incurred for:
 - (A) construction;
 - (B) demolition;
 - (C) design;
 - (D) engineering;
 - (E) an environmental impact study;
 - (F) environmental remediation; or
 - (G) rehabilitation; or
 - (ii) similar to an expense described in Subsection (8)(a)(i) as determined by the board; and
 - (b) the publicly owned improvement is:
 - (i) not a building as determined by the board; and
 - (ii) necessary to support a project as determined by the board.
- (9) "Publicly owned improvement" means an improvement to real property if:
 - (a) the real property is owned by:
 - (i) the United States;
 - (ii) the state; or
 - (iii) a political subdivision:
 - (A) as defined in Section 17B-1-102; and
 - (B) of the state; and
 - (b) the improvement relates to:
 - (i) a sewage system including a system for collection, transport, storage, treatment, dispersal, effluent use, or discharge;
 - (ii) a drainage or flood control system, including a system for collection, transport, diversion, storage, detention, retention, dispersal, use, or discharge;
 - (iii) a water system including a system for production, collection, storage, treatment, transport, delivery, connection, or dispersal;
 - (iv) a highway, street, or road system for vehicular use for travel, ingress, or egress;
 - (v) a rail transportation system;
 - (vi) a system for pedestrian use for travel, ingress, or egress;
 - (vii) a public utility system including a system for electricity, gas, or telecommunications; or
 - (viii) a system or device that is similar to a system or device described in Subsections (9)(b)(i) through (vii) as determined by the board.

Renumbered and Amended by Chapter 283, 2015 General Session

63N-4-203 Board authority to award a grant or loan to an eligible county -- Interest on a loan -- Eligible county proposal process -- Process for awarding a grant or loan.

- (1)
 - (a) Subject to the provisions of, and funds made available for, this section, beginning on July 1, 2005, through June 30, 2015, the board may make an award to an eligible county of one or more grants or loans to assist in paying an eligible expense relating to a project.

- (b) The total amount of grants and loans that the board may award in accordance with this section relating to one project is \$75,000.
 - (c) If the board awards a loan to an eligible county in accordance with this section, the loan shall be subject to interest as provided by the procedures and methods referred to in Subsection (6).
- (2)
- (a) Before the board may award an eligible county a grant or loan in accordance with this section, the eligible county shall submit a written proposal to the board in accordance with Subsection (2)(b).
 - (b) The proposal described in Subsection (2)(a) shall:
 - (i) describe the project area;
 - (ii) describe the characteristics of the project including a description of how the project will be implemented;
 - (iii) provide an economic development plan for the project including a description of any eligible expenses that will be incurred as part of implementing the project;
 - (iv) describe the characteristics of the community within which the project area is located;
 - (v) establish that the community within which the project area is located is a disadvantaged community on the basis of one or more of the following factors:
 - (A) median income per capita within the community;
 - (B) median property tax revenues generated within the community;
 - (C) median sales and use tax revenues generated within the community; or
 - (D) unemployment rates within the community;
 - (vi) demonstrate that there is a need for the project in the community within which the project area is located;
 - (vii) describe the short-term and long-term benefits of the project to the community within which the project area is located;
 - (viii) demonstrate that there is a need for assistance in paying eligible expenses relating to the project;
 - (ix) indicate the amount of any revenues that will be pledged to match any funds the board may award as a loan or grant under this section; and
 - (x) indicate whether there is support for the implementation of the project from:
 - (A) the community within which the project area is located; and
 - (B) any cities or towns within which the project area is located.
- (3) At the request of the board, representatives from an eligible county shall appear before the board to:
- (a) present a proposal submitted to the board in accordance with Subsection (2)(b); and
 - (b) respond to any questions or issues raised by the board relating to eligibility to receive a grant or loan under this section.
- (4) The board shall:
- (a) consider a proposal submitted to the board in accordance with Subsection (2);
 - (b) make written findings as to whether the proposal described in Subsection (4)(a) meets the requirements of Subsection (2)(b);
 - (c) make written findings as to whether to award the eligible county that submitted the proposal described in Subsection (4)(a) one or more grants or loans:
 - (i) on the basis of the factors established in Subsection (5);
 - (ii) in consultation with the director; and
 - (iii) in accordance with the procedures established for prioritizing which projects may be awarded a grant or loan by the board under this section;

- (d) if the board determines to award an eligible county a grant or loan in accordance with this section, make written findings in consultation with the director specifying the:
 - (i) amount of the grant or loan;
 - (ii) time period for distributing the grant or loan;
 - (iii) terms and conditions that the eligible county shall meet to receive the grant or loan;
 - (iv) structure of the grant or loan; and
 - (v) eligible expenses for which the eligible county may expend the grant or loan;
 - (e) if the board determines to award an eligible county a loan in accordance with this section, make written findings stating:
 - (i) the method of calculating interest applicable to the loan; and
 - (ii) procedures for:
 - (A) applying interest to the loan; and
 - (B) paying interest on the loan; and
 - (f) provide the written findings required by Subsections (4)(b) through (e) to the eligible county.
- (5) For purposes of Subsection (4)(c), the board shall consider the following factors in determining whether to award an eligible county one or more grants or loans authorized by this part:
- (a) whether the project is likely to result in economic development in the community within which the project area is located;
 - (b) whether the community within which the project area is located is a disadvantaged community on the basis of one or more of the following factors:
 - (i) median income per capita within the community;
 - (ii) median property tax revenues generated within the community;
 - (iii) median sales and use tax revenues generated within the community; or
 - (iv) unemployment rates within the community;
 - (c) whether there is a need for the project in the community within which the project area is located;
 - (d) whether the project is likely to produce short-term and long-term benefits to the community within which the project area is located;
 - (e) whether the project would be successfully implemented without the board awarding a grant or a loan to the eligible county;
 - (f) whether any revenues will be pledged to match any funds the board may award as a grant or loan under this section;
 - (g) whether there is support for the implementation of the project from:
 - (i) the community within which the project area is located; and
 - (ii) any cities or towns within which the project area is located; and
 - (h) any other factor as determined by the board.
- (6) The office shall establish procedures:
- (a) for prioritizing which projects may be awarded a grant or loan by the board under this section; and
 - (b) for loans awarded in accordance with this section:
 - (i) the methods of calculating interest applicable to the loans; and
 - (ii) procedures for:
 - (A) applying interest to the loans; and
 - (B) paying interest on the loans.

Renumbered and Amended by Chapter 283, 2015 General Session

63N-4-204 Agreement between the executive director and an eligible county -- Failure to meet or violation of a term or condition of an agreement.

- (1) Before an eligible county that has been awarded a grant or loan in accordance with Section 63N-4-203 may receive the grant or loan, the eligible county shall enter into a written agreement with the executive director.
- (2) The written agreement described in Subsection (1):
 - (a) shall:
 - (i) specify the amount of the grant or loan;
 - (ii) specify the time period for distributing the grant or loan;
 - (iii) specify the terms and conditions that the eligible county shall meet to receive the grant or loan;
 - (iv) specify the structure of the grant or loan;
 - (v) specify the eligible expenses for which the eligible county may expend the grant or loan;
 - (vi) if the eligible county has been awarded a loan:
 - (A) specify the repayment schedule for the loan;
 - (B) specify the method of calculating interest applicable to the loan; and
 - (C) specify procedures for:
 - (I) applying interest to the loan; and
 - (II) paying interest on the loan; and
 - (vii) subject to Subsection (3), contain provisions governing the failure to meet or the violation of a term or condition of the agreement; and
 - (b) may contain any other provision as determined by the director.
- (3)
 - (a) Except as provided in Subsection (3)(b), and subject to Subsection (3)(c), if an eligible county fails to meet or violates any provision of the agreement described in Subsection (2), the board shall impose one or more of the following penalties:
 - (i) require the eligible county to repay all or a portion of the amount of any grant or loan the eligible county received in an amount determined by the board;
 - (ii) provide that an eligible county may not receive any amounts of a grant or loan that the eligible county has been awarded in accordance with Section 63N-4-203 but has not received; or
 - (iii) provide that an eligible county may not be awarded a grant or loan under this part for a time period determined by the board.
 - (b) Notwithstanding Subsection (3)(a), the board may waive, reduce, or compromise a penalty described in Subsection (3)(a) if an eligible county demonstrates that reasonable cause exists for the eligible county failing to meet or violating a provision of the agreement described in Subsection (2).
 - (c) If the board imposes a penalty in accordance with this Subsection (3) on an eligible county, the board shall provide written notice of the penalty to the eligible county within 10 calendar days after the day on which the board determines to impose the penalty.

Renumbered and Amended by Chapter 283, 2015 General Session

63N-4-205 Report on amount of grants and loans, projects, and outstanding debt.

The board shall annually provide the following information to the office for inclusion in the office's annual written report described in Section 63N-1a-306:

- (1) the total amount of grants and loans the board awarded to eligible counties under this part during the fiscal year that ended on the June 30 immediately preceding the November interim meeting;
- (2) a description of the projects with respect to which the board awarded a grant or loan under this part;
- (3) the total amount of outstanding debt service that is being repaid by a grant or loan awarded under this part;
- (4) whether the grants and loans awarded under this part have resulted in economic development within project areas; and
- (5) whether the board recommends:
 - (a) that the grants and loans authorized by this part should be continued; or
 - (b) any modifications to this part.

Amended by Chapter 282, 2021 General Session

Part 3

Utah Rural Jobs Act

63N-4-301 Title.

This part is known as the "Utah Rural Jobs Act."

Enacted by Chapter 274, 2017 General Session

63N-4-302 Definitions.

As used in this part:

- (1)
 - (a) "Affiliate" means a person that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with another person.
 - (b) For the purposes of this part, a person controls another person if the person holds, directly or indirectly, the majority voting or ownership interest in the controlled person or has control over the day-to-day operations of the controlled person by contract or by law.
- (2) "Claimant" means a resident or nonresident person that has state taxable income.
- (3) "Closing date" means the date on which a rural investment company has collected all of the investments described in Subsection 63N-4-303(7).
- (4)
 - (a) "Credit-eligible contribution" means an investment of cash by a claimant in a rural investment company that is or will be eligible for a tax credit as evidenced by notification issued by the office under Subsection 63N-4-303(5)(c).
 - (b) The investment shall purchase an equity interest in the rural investment company or purchase, at par value or premium, a debt instrument issued by the rural investment company that has a maturity date at least five years after the closing date.
- (5) "Eligible small business" means a business that at the time of an initial growth investment in the business by a rural investment company:
 - (a) has fewer than 150 employees;
 - (b) has less than \$10,000,000 in net income for the preceding taxable year;
 - (c) maintains the business's principal business operations in the state; and

- (d) is engaged in an industry related to:
 - (i) aerospace;
 - (ii) defense;
 - (iii) energy and natural resources;
 - (iv) financial services;
 - (v) life sciences;
 - (vi) outdoor products;
 - (vii) software development;
 - (viii) information technology;
 - (ix) manufacturing; or
 - (x) agribusiness.
- (6)
 - (a) "Excess return" means the difference between:
 - (i) the present value of all growth investments made by a rural investment company on the day the rural investment company applies to exit the program under Section 63N-4-309, including the present value of all distributions and gains from the growth investments; and
 - (ii) the sum of the amount of the original growth investment and an amount equal to any projected increase in the equity holder's federal or state tax liability, including penalties and interest, related to the equity holder's ownership, management, or operation of the rural investment company.
 - (b) If the amount calculated in Subsection (6)(a) is less than zero, the excess return is equal to zero.
- (7) "Federally licensed rural business investment company" means a person licensed as a rural business investment company under 7 U.S.C. Sec. 2009cc.
- (8) "Federally licensed small business investment company" means a person licensed as a small business investment company under 15 U.S.C. Sec. 681.
- (9)
 - (a) "Full-time employee" means an employee that throughout the year works at least 30 hours per week or meets the customary practices accepted by that industry as full time.
 - (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may make rules that establish additional hour or other criteria to determine what constitutes a full-time employee.
- (10) "Growth investment" means any capital or equity investment in an eligible small business or any loan made from the investment authority to an eligible small business with a stated maturity at least one year after the date of issuance.
- (11)
 - (a) "High wage" means a wage that is at least 100% of the county average wage.
 - (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may make rules that establish additional criteria to determine what constitutes a high wage.
- (12) "Investment authority" means the minimum amount of investment a rural investment company must make in eligible small businesses in order for credit-eligible contributions to the rural investment company to qualify for a rural job creation tax credit under Section 59-7-621 or 59-10-1038.
- (13)
 - (a) "New annual jobs" means the difference between:
 - (i)
 - (A) the monthly average of full-time employees that are paid a high wage at an eligible small business for the preceding calendar year; or

- (B) if the preceding calendar year contains the initial growth investment, the monthly average of full-time employees that are paid a high wage at an eligible small business for the months including and after the initial growth investment and before the end of the preceding calendar year; and
- (ii) the number of full-time employees that are paid a high wage at the eligible small business on the date of the initial growth investment.
- (b) If the amount calculated in Subsection (13)(a) is less than zero, the new annual jobs amount is equal to zero.
- (14)
 - (a) "Principal business operations" means the location where at least 60% of a business's employees work or where employees that are paid at least 60% of a business's payroll work.
 - (b) For the purposes of this part, an out-of-state business that agrees to relocate employees to this state to establish the business's principal business operations in this state using the proceeds of a growth investment is considered to have the business's principal business operations in this state if the business satisfies the requirements of Subsection (14)(a) within 180 days after receiving the growth investment, unless the office agrees to a later date.
- (15) "Program" means the provisions of this part applicable to a rural investment company.
- (16) "Rural county" means any county in this state except Salt Lake, Utah, Davis, Weber, Washington, Cache, Tooele, and Summit counties.
- (17) "Rural investment company" means a person approved by the office under Section 63N-4-303.
- (18)
 - (a) "State reimbursement amount" means the difference between:
 - (i) 50% of the rural investment company's credit-eligible capital contributions; and
 - (ii) the product of:
 - (A) the total sum of new annual jobs reported to the state in the rural investment company's exit report described in Section 63N-4-309; and
 - (B) \$20,000.
 - (b) If the amount calculated in Subsection (18)(a) is less than zero, the state reimbursement amount is equal to zero.
- (19) "Tax credit" means a rural job creation tax credit created by Section 59-7-621 or 59-10-1038.
- (20) "Tax credit certificate" means a certificate issued by the office that:
 - (a) lists the name of the person to which the office authorizes a tax credit;
 - (b) lists the person's taxpayer identification number;
 - (c) lists the amount of tax credit that the office authorizes the person to claim for the taxable year; and
 - (d) may include other information as determined by the office.

Amended by Chapter 354, 2020 General Session

63N-4-303 Application, approval, and allocations.

- (1)
 - (a) A person seeking approval as a rural investment company shall submit an application to the office.
 - (b) The office shall begin accepting applications on November 1, 2017.
- (2) An application submitted under Subsection (1) shall be in a form and in accordance with procedures prescribed by the office, and shall include the following:
 - (a) the total investment authority sought by the applicant, which may not exceed \$42,000,000;

- (b) a copy of the applicant's or an affiliate of the applicant's license as a federally licensed rural business investment company or as a federally licensed small business investment company;
 - (c) evidence that before the date the application is submitted, the applicant or affiliates of the applicant have invested at least \$50,000,000 in nonpublic companies located in counties in the United States with fewer than 50,000 inhabitants;
 - (d) a signed affidavit from each claimant that commits to make a credit-eligible capital contribution to the applicant, stating the amount of that commitment; and
 - (e) the sum of all credit-eligible capital contribution commitments described in Subsection (2)(d), which must equal 58% of the total investment authority sought by the applicant.
- (3) The office shall:
- (a) review and evaluate the applications submitted under this section within 30 days of receipt in the order in which the applications are received; and
 - (b) consider applications received on the same day to have been received simultaneously.
- (4)
- (a) If, after review and evaluation of an application, the office determines that the application does not meet the requirements of Subsection (2), the office shall:
 - (i) deny the application; or
 - (ii)
 - (A) notify the applicant that the application was inadequate and allow the applicant to provide additional information to the office to complete, clarify, or cure defects identified by the office in the application; and
 - (B) inform the applicant that the additional information described in Subsection (4)(a)(ii)(A) must be received by the office within five days of the notice in order to be considered.
 - (b) If an applicant submits additional information to the office in accordance with Subsection (4)(a)(ii), the office shall:
 - (i) consider the application to have been received on the date it was originally received by the office; and
 - (ii) review and evaluate the additional information within 10 days of receiving the additional information.
- (5) If, after review and evaluation of an application submitted under this section and any additional information submitted in accordance with Subsection (4)(a)(ii), the office determines that the application meets the requirements of Subsection (2), the office shall:
- (a) determine the amount of investment authority to award the applicant in accordance with Subsection (6);
 - (b) provide to the applicant a written notice of approval as a rural investment company specifying the amount of the applicant's investment authority; and
 - (c) notify each claimant whose affidavit was included in the application under Subsection (2) that the claimant qualifies for a tax credit that will be issued in accordance with Section 63N-4-304.
- (6)
- (a) The office may not approve more than \$42,000,000 in total investment authority and not more than \$24,360,000 in total credit-eligible contributions under this part.
 - (b) Subject to Subsection (6)(d), if an application is approved under Subsection (5), the office shall approve the amount of investment authority requested on the application.
 - (c) The office may continue to accept applications under this section until the amount of approved investment authority reaches \$42,000,000.
 - (d) If the office approves multiple applications received simultaneously under Subsection (3) and the total amount of investment authority requested on those applications exceeds the amount

of investment authority remaining, the office shall proportionally reduce the investment authority and credit-eligible capital contributions for each of these applications as necessary to avoid exceeding the amount of investment authority and credit-eligible capital contributions remaining.

- (7) Within 65 days after the day on which a rural investment company receives approval under Subsection (5)(b), the rural investment company shall:
 - (a) collect the total amount of committed credit-eligible capital contributions from each claimant whose affidavit was included in the application under Subsection (2);
 - (b) collect one or more cash equity investments contributed by affiliates of the rural investment company, including employees, officers, and directors of such affiliates, that equal at least 10% of the rural investment company's investment authority;
 - (c) collect one or more cash investments that, when added to the amounts collected under Subsections (7)(a) and (b), equal the rural investment company's investment authority; and
 - (d) send sufficient documentation to the office to prove that the amounts described in this Subsection (7) have been collected.
- (8) If the rural investment company fails to fully comply with Subsection (7):
 - (a) the rural investment company's approval shall lapse and the corresponding investment authority and credit-eligible capital contributions shall not count toward the limits on the program size described in Subsection (6);
 - (b) if the office awards lapsed investment authority to a rural investment company, the office shall first award lapsed investment authority pro rata to each rural investment company that was awarded less than the requested investment authority under Subsection (6)(d), which a rural investment company may allocate to the rural investment company's investors at the company's discretion; and
 - (c) the office may award any remaining investment authority to new applicants.

Enacted by Chapter 274, 2017 General Session

63N-4-304 Tax credit.

- (1) On the closing date, a claimant whose affidavit was included in an approved application submitted under Section 63N-4-303 shall earn a vested tax credit equal to the amount of the claimant's credit-eligible capital contribution to the rural investment company.
- (2) In each of the taxable years that includes the fourth through seventh anniversaries of the closing date, the office shall:
 - (a) issue a tax credit certificate to each approved claimant, specifying a tax credit amount for the taxable year equal to 25% of the claimant's total credit-eligible capital contribution; and
 - (b) provide a report to the State Tax Commission listing each claimant that received a tax credit certificate under Subsection (2)(a) and the tax credit amount listed on the certificate.
- (3)
 - (a) A claimant may not claim a tax credit under this section unless the claimant has a tax credit certificate issued by the office.
 - (b) A claimant claiming a credit under this section shall retain a tax credit certificate the claimant receives from the office for the same time period a person is required to keep books and records under Section 59-1-1406.
- (4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office shall make rules describing:
 - (a) the documentation requirements for a business entity to receive a tax credit certificate under this section; and

- (b) administration of the program, including relevant timelines and deadlines.

Enacted by Chapter 274, 2017 General Session

63N-4-305 Revocation of tax credit certificates and exit.

- (1) Except as provided in Subsection (2), the office shall revoke a tax credit certificate issued under Section 63N-4-304 if the rural investment company in which the credit-eligible capital contribution was made does any of the following before the rural investment company exits the program in accordance with Section 63N-4-309:
 - (a) fails to invest 100% of the rural investment company's investment authority in growth investments in this state within three years of the closing date;
 - (b) fails to maintain growth investments in this state equal to 100% of the rural investment company's investment authority until the seventh anniversary of the closing date in accordance with this section;
 - (c) makes a distribution or payment that results in the rural investment company having less than 100% of the rural investment company's investment authority invested in growth investments in this state or available for investment in growth investments and held in cash and other marketable securities;
 - (d) fails to maintain growth investments equal to 70% of the rural investment company's investment authority in eligible small businesses that maintain their principal business operations in a rural county;
 - (e) invests more than \$5,000,000 from the investment authority in the same eligible small business, including amounts invested in affiliates of the eligible small business, exclusive of growth investments made with repaid or redeemed growth investments or interest or profits realized on the repaid or redeemed growth investments; or
 - (f) makes a growth investment in an eligible small business that directly, or indirectly through an affiliate:
 - (i) owns or has the right to acquire an ownership interest in the rural investment company, an affiliate of the rural investment company, or an investor in the rural investment company; or
 - (ii) makes a loan to or an investment in the rural investment company, an affiliate of the rural investment company, or an investor in the rural investment company.
- (2)
 - (a)
 - (i) For the purposes of Subsection (1), an investment is maintained even if the investment is sold or repaid if the rural investment company reinvests an amount equal to the capital returned or recovered by the fund from the original investment, exclusive of any profits realized, in other growth investments in this state within 12 months of the receipt of such capital.
 - (ii) Amounts received periodically by a rural investment company are treated as continually invested in growth investments if the amounts are reinvested in one or more growth investments by the end of the following calendar year.
 - (iii) A rural investment company is not required to reinvest capital returned from growth investments after the sixth anniversary of the closing date and such growth investments are considered as being held continuously by the rural investment company through the seventh anniversary of the closing date.
 - (b)
 - (i) Subsection (1)(f) does not apply to investments in publicly traded securities by an eligible small business or an owner or affiliate of an eligible small business.

- (ii) Under Subsection (1)(f), a rural investment company is not considered an affiliate of a business concern solely as a result of the rural investment company's growth investment.
- (c) A growth investment in an eligible small business that is not located in a rural county may count toward the requirements of Subsection (1)(d) if the office determines that the eligible small business is located in an economically disadvantaged rural area as defined by rules made by the office in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (3)
 - (a) Before revoking one or more tax credit certificates under this section, the office shall notify the rural investment company of the reasons for the pending revocation.
 - (b) If the rural investment company corrects any violation outlined in the notice to the satisfaction of the office within 90 days after the day on which the notice was sent, the office may not revoke the tax credit certificate.
 - (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may make rules that establish criteria to determine what constitutes a correction under Subsection (3)(b).
- (4) If tax credit certificates are revoked under this section:
 - (a)
 - (i) the rural investment company shall make a cash distribution to the office in an amount equal to the sum of all tax credits awarded to persons that have made credit-eligible contributions to the rural investment company; and
 - (ii) if the rural investment company is able to provide documentation to the office that proves that a tax credit described in Subsection (4)(a)(i) has not been claimed, the amount owed under Subsection (4)(a)(i) shall be reduced by the amount of the unclaimed tax credit;
 - (b) the rural investment company's investment authority and credit-eligible capital contributions will not count toward the limits on the program size described in Subsection 63N-4-303(6);
 - (c) if the office awards lapsed investment authority to a rural investment company, the office shall first award lapsed investment authority pro rata to each rural investment company that was awarded less than the requested investment authority under Subsection 63N-4-303(6)(d), which a rural investment company may allocate to the rural investment company's investors at the rural investment company's discretion; and
 - (d) the office may award any remaining investment authority to new applicants.
- (5) The office may not revoke a tax credit certificate after a rural investment company has exited the program in accordance with Section 63N-4-309.

Enacted by Chapter 274, 2017 General Session

63N-4-306 Request for determination.

- (1) A rural investment company, before making a growth investment, may request from the office a written opinion as to whether the business in which a rural investment company proposes to invest is an eligible small business.
- (2) The office shall notify the rural investment company of the office's determination within 30 days after receipt of the request.
- (3) If the office fails to notify the rural investment company of the office's determination in accordance with this section, the business in which the rural investment company proposes to invest shall be considered an eligible small business.

Enacted by Chapter 274, 2017 General Session

63N-4-307 Reporting obligations.

- (1) A rural investment company shall submit an annual report to the office on or before the last day of February for each previous calendar year until the rural investment company has exited the program in accordance with Section 63N-4-309. The annual report shall provide documentation as to the rural investment company's growth investments and include:
 - (a) a bank statement evidencing each growth investment;
 - (b) the name, location, and industry of each business concern receiving a growth investment, including either the determination letter set forth in Section 63N-4-306 or evidence that the business qualified as an eligible small business at the time the investment was made;
 - (c) the number of new annual jobs at each eligible small business for the preceding year, accompanied by a report from a third-party accounting firm attesting that the number of new annual jobs was calculated in accordance with procedures approved by the office; and
 - (d) any other information required by the office.
- (2) Within 60 days of receipt of an annual report, the office shall provide written confirmation to the rural investment company of the number of new annual jobs the rural investment company has been credited with for the previous calendar year.
- (3) By the fifth business day after the third anniversary of the closing date, a rural investment company shall submit a report to the office providing evidence that the rural investment company is in compliance with the investment requirements of Section 63N-4-305.

Enacted by Chapter 274, 2017 General Session

63N-4-308 Annual fee.

- (1) The office shall calculate an annual fee to be paid by each rural investment company by dividing \$50,000 by the number of rural investment companies approved under this part and notify each rural investment company of the amount of the annual fee.
- (2)
 - (a) The initial annual fee shall be due and payable to the office along with the evidence of receipt of the cash investment in the rural investment company as described in Subsection 63N-4-303(7)(d).
 - (b) After the initial annual fee, an annual fee shall be due and payable to the office on or before the last day of February of each year.
 - (c) An annual fee shall not be required once a rural investment company has exited the program under Section 63N-4-309.
- (3) To maintain an aggregate annual fee of \$50,000, the office shall recalculate the annual fee as needed upon the lapse of any approval under Subsection 63N-4-303(8), the revocation of tax credit certificates under Section 63N-4-305, or a rural investment company's exit from the program under Section 63N-4-309.
- (4) The annual fee collected under this section shall be deposited into the General Fund as a dedicated credit for use by the office to implement this part.

Enacted by Chapter 274, 2017 General Session

63N-4-309 Exit.

- (1) On or after the seventh anniversary of the closing date, a rural investment company may apply to the office to exit the program and no longer be subject to this part.

- (2) An application submitted under Subsection (1) shall be in a form and in accordance with procedures prescribed by the office and shall include a calculation of the state reimbursement amount.
- (3) In evaluating the exit application, if no tax credit certificates have been revoked and the rural investment company has not received a notice of revocation that has remained uncorrected under Subsection 63N-4-305(3)(b), the rural investment company is eligible for exit.
- (4)
 - (a) The office shall respond to the application within 30 days of receipt and include confirmation of the state reimbursement amount.
 - (b) The office shall not unreasonably deny an application submitted under this section.
 - (c) If the office denies the application, the office shall provide the reasons for the determination to the rural investment company.
- (5) Within 60 days after the day on which the confirmation of the state reimbursement amount is received by the rural investment company, the rural investment company shall make a cash distribution to the state in an amount equal to the lesser of:
 - (a) the state reimbursement amount; and
 - (b) the excess return.
- (6) The office shall notify the rural investment company once payments equal to the amount described in Subsection (4) have been received.
- (7) Any amounts collected under this section shall be deposited into the General Fund.

Enacted by Chapter 274, 2017 General Session

Part 4

Rural Employment Expansion Program

63N-4-401 Title.

This part is known as the "Rural Employment Expansion Program."

Enacted by Chapter 340, 2018 General Session

63N-4-402 Definitions.

As used in this part:

- (1)
 - (a) "Business entity" means a sole proprietorship, partnership, association, joint venture, corporation, firm, trust, foundation, or other organization or entity used in carrying on a business.
 - (b) "Business entity" does not include a business primarily engaged in the following:
 - (i) construction;
 - (ii) staffing;
 - (iii) retail trade; or
 - (iv) public utility activities.
- (2)
 - (a) "Owner or officer" means an individual who owns an ownership interest in an entity or holds a position where the person has authority to manage, direct, control, or make decisions for:
 - (i) the entity or a portion of the entity; or

- (ii) an employee, agent, or independent contractor of the entity.
- (b) "Owner or officer" includes:
 - (i) a member of a board of directors or other governing body of an entity; or
 - (ii) a partner in any type of partnership.
- (3) "Rural employment expansion grant" means a grant available under this part.

Amended by Chapter 45, 2019 General Session

Amended by Chapter 465, 2019 General Session

63N-4-403 Duties of the office.

- (1) The office shall:
 - (a) review a business entity's application for a rural employment expansion grant under this part in the order in which the application is received by the office;
 - (b) ensure that a rural employment expansion grant is only awarded to a business entity that meets the requirements of this part; and
 - (c) as part of the annual written report described in Section 63N-1a-306, prepare an annual evaluation that provides:
 - (i) the identity of each business entity that was provided a rural employment expansion grant by the office during the year of the annual report;
 - (ii) the total amount awarded in rural employment expansion grants for each county; and
 - (iii) an evaluation of the effectiveness of the rural employment expansion grant in bringing significant new employment to rural communities.
- (2) The office may:
 - (a) authorize a rural employment expansion grant for a business entity under this part;
 - (b) audit a business entity to ensure:
 - (i) eligibility for a rural employment expansion grant; and
 - (ii) compliance with this part; and
 - (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and in accordance with the provisions of this part, make rules regarding the:
 - (i) form and content of an application for a rural employment expansion grant;
 - (ii) documentation or other requirements for a business entity to receive a rural employment expansion grant; and
 - (iii) administration of rural employment expansion grants, including an appeal process and relevant timelines and deadlines.

Amended by Chapter 282, 2021 General Session

63N-4-404 Rural employment expansion grant application process.

- (1) For a fiscal year beginning on or after July 1, 2018, a business entity seeking to receive a rural employment expansion grant as provided in this part shall provide the office with an application for a rural employment expansion grant in a form approved by the office that includes:
 - (a) a certification, by an officer of the business entity, of each signature on the application;
 - (b) a document that specifies the projected number and anticipated wage level of the new full-time employee positions that the business entity plans to create as the basis for qualifying for a rural employment expansion grant; and
 - (c) any additional information required by the office.
- (2)

- (a) If, after review of an application provided by a business entity as described in Subsection (1), the office determines that the application is inadequate to provide a reasonable justification for authorizing the rural employment expansion grant, the office shall:
 - (i) deny the application; or
 - (ii) inform the business entity that the application is inadequate and ask the business entity to submit additional documentation.
 - (b)
 - (i) If the office denies an application, the business entity may appeal the denial to the office.
 - (ii) The office shall review any appeal within 10 business days and make a final determination of the business entity's eligibility for a grant under this part.
- (3) If, after review of an application provided by a business entity as described in Subsection (1), the office determines that the application provides reasonable justification for authorizing a rural employment expansion grant and if there are available funds for the grant, the office shall enter into a written agreement with the business entity that:
 - (a) indicates the maximum rural employment expansion grant amount the business entity is authorized to receive;
 - (b) includes a document signed by an officer of the business entity that expressly directs and authorizes the State Tax Commission to disclose to the office the business entity's tax returns and other information that would otherwise be subject to confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code;
 - (c) describes the documentation required to demonstrate that the business entity has created the new full-time employee positions described in the application provided under Subsection (1); and
 - (d) specifies the deadlines to provide the documentation described in Subsection (3)(c).
- (4)
 - (a) Subject to available funds, the office may award a rural employment expansion grant to a business entity as follows:
 - (i) \$4,000 for each new full-time employee position in a county where the average county wage is equal to or greater than the state average wage;
 - (ii) \$5,000 for each new full-time employee position in a county where the average county wage is between 85% and 99% of the state average wage; and
 - (iii) \$6,000 for each new full-time employee position in a county where the average county wage is less than 85% of the state average wage.
 - (b) A business entity may qualify for no more than \$250,000 in rural employment expansion grants in any fiscal year.
- (5)
 - (a) Subject to available funds, the office shall award a business entity a grant in the amount allowed under this part if the business entity provides documentation to the office:
 - (i) in a form prescribed by the office under Subsection (3)(c);
 - (ii) before the deadline described in Subsection (3)(d); and
 - (iii) that demonstrates that the business applicant has created new full-time employee positions.
 - (b) If a business entity does not provide the documentation described in Subsection (3)(c) before the deadline described in Subsection (3)(d), the business entity is ineligible to receive a rural employment expansion grant unless the business entity submits a new application to be reviewed by the office in accordance with Subsection (1).
- (6) Nothing in this part prevents a business entity that has received a rural employment expansion grant from concurrently applying for or receiving another grant or incentive administered by the office.

- (7)
- (a) As used in this Subsection (7):
- (i) "Mining company" means an entity whose primary business is the exploration for or extraction of minerals from the earth.
 - (ii) "Mining services company" means an entity whose primary business is providing support services for a mining company, including drilling or geological modeling.
- (b) If an applicant for a rural employment expansion grant is a mining company or mining services company having business operations within five miles of a rural county, the applicant shall be treated as if the applicant were located within the adjacent rural county in determining whether the applicant qualifies for the rural employment expansion program.

Amended by Chapter 369, 2020 General Session

Part 5

Rural Coworking and Innovation Center Grant Program

63N-4-501 Title.

This part is known as the "Rural Coworking and Innovation Center Grant Program."

Enacted by Chapter 467, 2019 General Session

63N-4-502 Definitions.

As used in this part:

- (1) "Advisory committee" means the Rural Online Working Hubs Grant Advisory Committee created in Section 63N-4-505.
- (2) "Coworking and innovation center" means a facility designed to provide individuals with the infrastructure and equipment to participate in the online workforce.
- (3) "Entity" means a county, city, institution of higher education, or private company.
- (4) "Grant" means a grant awarded as part of the Rural Coworking and Innovation Center Grant Program created in Section 63N-4-503.
- (5) "Grant program" means the Rural Coworking and Innovation Center Grant Program created in Section 63N-4-503.
- (6) "Rural area" means any area in any county in the state except Salt Lake, Utah, Davis, Weber, Washington, Cache, Tooele, and Summit counties.

Enacted by Chapter 467, 2019 General Session

63N-4-503 Creation and purpose of the Rural Coworking and Innovation Center Grant Program.

- (1) There is created the Rural Coworking and Innovation Center Grant Program administered by the office.
- (2) The office may seek to accomplish the following objectives in administering the grant program:
 - (a) constructing or renovating a facility in one or more rural areas to create one or more coworking and innovation centers;
 - (b) extending and improving utilities and broadband service connections to one or more coworking and innovation centers in one or more rural areas; and

- (c) purchasing equipment, furniture, and security systems as part of one or more coworking and innovation centers in one or more rural areas.

Enacted by Chapter 467, 2019 General Session

63N-4-504 Requirements for awarding a working hubs grant.

- (1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office shall make rules establishing the eligibility and reporting criteria for an entity to receive a grant under this part, including:
 - (a) the form and process of submitting an application to the office for a grant;
 - (b) which entities are eligible to apply for a grant;
 - (c) the method and formula for determining grant amounts; and
 - (d) the reporting requirements of grant recipients.
- (2) In determining the award of a grant, the office may prioritize projects:
 - (a) that will serve underprivileged or underserved communities, including communities with high unemployment or low median incomes;
 - (b) where an applicant demonstrates comprehensive planning of the project but has limited access to financial resources, including financial resources from local or county government; and
 - (c) that maximize economic development opportunities in collaboration with the economic development needs or plans of an educational institution, a county, and a municipality.
- (3) Subject to legislative appropriation, a grant may only be awarded by the executive director after consultation with the advisory committee.
- (4) A grant may only be awarded under this part:
 - (a) if the grant recipient agrees to provide any combination of funds, land, buildings, or in-kind work in an amount equal to at least 25% of the grant;
 - (b) if the grant recipient agrees not to use grant money for the ongoing operation or maintenance of a coworking and innovation center; and
 - (c) in an amount no more than \$500,000 to a grant applicant.

Enacted by Chapter 467, 2019 General Session

63N-4-505 Rural Online Working Hubs Grant Advisory Committee -- Membership -- Duties -- Expenses.

- (1) There is created in the office the Rural Online Working Hubs Grant Advisory Committee, composed of the following seven members:
 - (a) the executive director, or the executive director's designee;
 - (b) a member of the Senate, or a member of the House of Representatives, who represents rural constituents, chosen by the president of the Senate;
 - (c) one member representing municipal government in a rural county, recommended by the Utah League of Cities and Towns and appointed by the executive director;
 - (d) one member representing rural county government, recommended by the Utah Association of Counties and appointed by the executive director;
 - (e) one member representing higher education, appointed by the executive director;
 - (f) one member representing the information technology sector, recommended by the Utah Technology Council and appointed by the executive director; and

- (g) one member representing the commercial real estate development community, recommended by the Utah chapter of the Commercial Real Estate Development Association and appointed by the executive director.
- (2) The advisory committee shall advise and make recommendations to the office regarding awarding grants under this part.
- (3)
 - (a) Except as required by Subsection (3)(b), as terms of advisory committee members appointed by the executive director expire, the executive director shall appoint each new member or reappointed member to a four-year term.
 - (b) Notwithstanding the requirements of Subsection (3)(a), the executive director shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of advisory committee members appointed by the executive director are staggered so that approximately half of the appointed advisory committee members are appointed every two years.
- (4) The executive director, or the director's designee, shall serve as chair of the advisory committee.
- (5) The advisory committee shall elect annually a vice chair from the advisory committee's members.
- (6) When a vacancy occurs in the membership for any reason, the executive director shall appoint the replacement for the unexpired term.
- (7) A majority of the advisory committee constitutes a quorum for the purpose of conducting advisory committee business and the action of a majority of a quorum constitutes the action of the advisory committee.
- (8) The office shall provide administrative staff support for the advisory committee.
- (9) A member may not receive compensation or benefits for the member's service, but a member, who is not a legislator, may receive per diem and travel expenses in accordance with:
 - (a) Section 63A-3-106;
 - (b) Section 63A-3-107; and
 - (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Enacted by Chapter 467, 2019 General Session

Part 6

Rural Rapid Manufacturing Grant Program

63N-4-601 Title.

This part is known as the "Rural Rapid Manufacturing Grant Program."

Enacted by Chapter 503, 2019 General Session

63N-4-602 Definitions.

As used in this part:

- (1) "Entity" means an institution of higher education or nonprofit company.
- (2) "Grant" means a grant awarded as part of the Rural Rapid Manufacturing Grant Program created in Section 63N-4-603.

- (3) "Grant program" means the Rural Rapid Manufacturing Grant Program created in Section 63N-4-603.
- (4) "Rapid manufacturing" means a facility, laboratory, equipment, or process engaged in small-batch, fast-delivery manufacturing.
- (5) "Rural area" means any area in any county in the state except Salt Lake, Utah, Davis, Weber, Washington, Cache, Tooele, and Summit counties.

Enacted by Chapter 503, 2019 General Session

63N-4-603 Creation and purpose of the Rural Rapid Manufacturing Grant Program.

- (1) There is created the Rural Rapid Manufacturing Grant Program administered by the office.
- (2) The office may seek to accomplish the following objectives in administering the grant program:
 - (a) provide funding for the construction or renovation of a rapid manufacturing clothing production laboratory, engineering and computer graphics laboratory, manufacturing systems laboratory, or textile science laboratory designed to train students and employees;
 - (b) provide funding for the building and improvement of equipment to provide opportunities for students and employees to train and participate in rapid manufacturing; and
 - (c) provide training and scholarships for students and employees to participate in rapid manufacturing employment opportunities.

Enacted by Chapter 503, 2019 General Session

63N-4-604 Requirements for awarding a grant.

- (1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office shall make rules establishing the eligibility and reporting criteria for an entity to receive a grant under this part, including:
 - (a) the form and process of submitting an application to the office for a grant;
 - (b) which entities are eligible to apply for a grant;
 - (c) the method and formula for determining grant amounts; and
 - (d) the reporting requirements of grant recipients.
- (2) In determining the award of a grant, the office may prioritize projects:
 - (a) that will serve underprivileged or underserved communities, including communities with high unemployment or low median incomes;
 - (b) where an applicant demonstrates comprehensive planning of the project and the cooperation of high quality partners, including an institution of higher education; and
 - (c) that will create new high paying employment positions in rural areas that pay at least 125% of the average wage of the community in which the employment positions will exist.
- (3) Subject to legislative appropriation, a grant may only be awarded by the executive director for a project in a rural area of the state.

Enacted by Chapter 503, 2019 General Session

Part 7
Rural Speculative Industrial Building Program

63N-4-701 Title.

This part is known as the "Rural Speculative Industrial Building Program."

Enacted by Chapter 360, 2020 General Session

63N-4-702 Definitions.

As used in this part:

- (1) "Entity" means a county, city, or private company.
- (2) "Lease" means a legal contract entered into by the office and a lessor of a rural speculative industrial building before the construction of a rural speculative industrial building.
- (3) "Program" means the Rural Speculative Industrial Building Program created in Section 63N-4-703.
- (4) "Rural speculative industrial building" means an industrial facility that is constructed with the support of the program in a rural area and that does not have a private entity tenant at the time construction begins.
- (5) "Rural area" means any area in a county of the state, except for an area in Salt Lake, Utah, Davis, Weber, Washington, Cache, Tooele, or Summit counties.

Enacted by Chapter 360, 2020 General Session

63N-4-703 Creation and purpose of the Rural Speculative Industrial Building Program.

- (1) There is created the Rural Speculative Industrial Building Program administered by the office.
- (2) In administering the program, the office shall encourage the construction of rural speculative industrial buildings by private developers in one or more rural areas to attract new or expanding businesses into rural areas.

Enacted by Chapter 360, 2020 General Session

63N-4-704 Requirements for entering into a lease.

- (1) In accordance with the provisions of this part and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office shall make rules establishing the eligibility and reporting criteria for an applicant to participate in the program as a lessor of a rural speculative industrial building, including:
 - (a) the form and process of submitting an application to the office;
 - (b) the eligibility requirements of an applicant;
 - (c) the method and formula for determining lease terms between the office and a lessor of a rural speculative industrial building; and
 - (d) the reporting requirements of participants in the program.
- (2) In determining whether to approve an application for participation in the program, the office may prioritize a project:
 - (a) that will serve underprivileged or underserved communities, including communities with high unemployment or low median incomes;
 - (b) where an applicant demonstrates comprehensive planning of the project, including a business case;
 - (c) where the applicant, as determined by the office, is likely to have success in attracting a tenant to assume the office's lease of a rural speculative industrial building in a short amount of time; and
 - (d) that maximizes economic development opportunities in accordance with the economic development needs or plans of a county or a municipality.

- (3) Subject to legislative appropriation, a lease may only be entered into by the office if:
 - (a) the executive director, after consultation with the GO Utah board, approves entering into the lease;
 - (b) the local municipal entity supports the program through the provision of local incentives, reduced impact fees, or other monetary support for the rural speculative industrial building; and
 - (c) the lease terms are not more than \$100,000 per year with a maximum five-year lease term.
- (4) The office shall include in the annual written report described in Section 63N-1a-306:
 - (a) an overview of each lease entered into under this program; and
 - (b) the success of this program in attracting new or expanding businesses into rural areas.

Amended by Chapter 282, 2021 General Session

Chapter 6

Utah Venture Capital Enhancement Act

Part 1

General Provisions

63N-6-101 Title.

This chapter is known as the "Utah Venture Capital Enhancement Act."

Renumbered and Amended by Chapter 283, 2015 General Session

63N-6-102 Findings -- Purpose.

- (1) The Legislature finds that:
 - (a) fundamental changes have occurred in national and international financial markets and in the state's financial markets;
 - (b) a critical shortage of seed, venture capital, and private equity resources exists in the state, and that shortage is impairing the growth of commerce in the state;
 - (c) a need exists to increase the availability of venture capital and private equity for emerging, expanding, and restructuring enterprises in Utah, including enterprises in the life sciences, advanced manufacturing, and information technology;
 - (d) increased venture and private equity capital investments in emerging, expanding, and restructuring enterprises in Utah will:
 - (i) create new jobs in the state; and
 - (ii) help to diversify the state's economic base; and
 - (e) a well-trained work force is critical for the maintenance and development of Utah's economy.
- (2) This part is enacted to:
 - (a) mobilize private investment in a broad variety of venture capital and private equity partnerships in diversified industries and locales;
 - (b) retain the private-sector culture of focusing on rate of return in the investing process;
 - (c) secure the services of the best managers in the venture capital and private equity industries, regardless of location;

- (d) facilitate the organization of the Utah fund of funds to seek private investments and to serve as a catalyst in those investments by offering state incentives for private persons to make investments in the Utah fund of funds;
- (e) enhance the culture and infrastructure in the state to increase venture capital and private equity investment within the state;
- (f) accomplish the purposes referred to in Subsections (2)(a) through (e) in a manner that would maximize the direct economic impact for the state; and
- (g) authorize the issuance and use of contingent tax credits to accomplish the purposes referred to in Subsections (2)(a) through (e) while protecting the interests of the state by limiting the manner in which contingent tax credits are issued, registered, transferred, claimed as an offset to the payment of state income tax, and redeemed.

Renumbered and Amended by Chapter 283, 2015 General Session

Amended by Chapter 420, 2015 General Session

63N-6-103 Definitions.

As used in this part:

- (1) "Board" means the Utah Capital Investment Board.
- (2) "Certificate" means a contract between the board and a designated investor under which a contingent tax credit is available and issued to the designated investor.
- (3)
 - (a) Except as provided in Subsection (3)(b), "claimant" means a resident or nonresident person.
 - (b) "Claimant" does not include an estate or trust.
- (4) "Commitment" means a written commitment by a designated purchaser to purchase from the board certificates presented to the board for redemption by a designated investor. Each commitment shall state the dollar amount of contingent tax credits that the designated purchaser has committed to purchase from the board.
- (5) "Contingent tax credit" means a contingent tax credit issued under this part that is available against tax liabilities imposed by Title 59, Chapter 7, Corporate Franchise and Income Taxes, or Title 59, Chapter 10, Individual Income Tax Act, if there are insufficient funds in the redemption reserve and the board has not exercised other options for redemption under Subsection 63N-6-408(3)(b).
- (6) "Corporation" means the Utah Capital Investment Corporation created under Section 63N-6-301.
- (7) "Designated investor" means:
 - (a) a person who makes a private investment; or
 - (b) a transferee of a certificate or contingent tax credit.
- (8) "Designated purchaser" means:
 - (a) a person who enters into a written undertaking with the board to purchase a commitment; or
 - (b) a transferee who assumes the obligations to make the purchase described in the commitment.
- (9) "Estate" means a nonresident estate or a resident estate.
- (10) "Person" means an individual, partnership, limited liability company, corporation, association, organization, business trust, estate, trust, or any other legal or commercial entity.
- (11) "Private investment" means:
 - (a) an equity interest in the Utah fund of funds; or

- (b) a loan to the Utah fund of funds initiated before July 1, 2014, including a loan that was originated before July 1, 2014, and that is refinanced one or more times on or after July 1, 2014.
- (12) "Redemption reserve" means the reserve established by the corporation to:
 - (a) facilitate the cash redemption of certificates; and
 - (b) provide money for the state as directed by statute.
- (13) "Restricted account" means the Utah Capital Investment Restricted Account created in Section 63N-6-204.
- (14) "Taxpayer" means a taxpayer:
 - (a) of an investor; and
 - (b) if that taxpayer is a:
 - (i) claimant;
 - (ii) estate; or
 - (iii) trust.
- (15) "Trust" means a nonresident trust or a resident trust.
- (16) "Utah fund of funds" means a limited partnership or limited liability company established under Section 63N-6-401 in which a designated investor purchases an equity interest.

Amended by Chapter 438, 2021 General Session

Part 2

Utah Capital Investment Board and Restricted Account

63N-6-201 Utah Capital Investment Board.

- (1) There is created within the office the Utah Capital Investment Board to exercise the powers conferred by this part.
- (2) The purpose of the board is to mobilize venture equity capital for investment in a manner that will result in a significant potential to create jobs and to diversify and stabilize the economy of the state.
- (3) In the exercise of its powers and duties, the board is considered to be performing an essential public purpose.

Renumbered and Amended by Chapter 283, 2015 General Session

63N-6-202 Board members -- Meetings -- Expenses.

- (1)
 - (a) The board shall consist of the following five members:
 - (i) the state treasurer;
 - (ii) the executive director or the executive director's designee; and
 - (iii) three members appointed by the governor and confirmed by the Senate.
 - (b) The three members appointed by the governor shall serve four-year staggered terms with the initial terms of the first three members to be four years for one member, three years for one member, and two years for one member.
 - (c) The governor shall appoint members of the board based on demonstrated expertise and competence in:
 - (i) the supervision of investment managers;

- (ii) the fiduciary management of investment funds; or
 - (iii) the management and administration of tax credit allocation programs.
- (2) When a vacancy occurs in the membership of the board for any reason, the vacancy shall be:
 - (a) filled in the same manner as the appointment of the original member; and
 - (b) for the unexpired term of the board member being replaced.
- (3) Appointed members of the board may not serve more than two full consecutive terms except when the governor determines that an additional term is in the best interest of the state.
- (4)
 - (a) Four members of the board constitute a quorum for conducting business and exercising board power.
 - (b) If a quorum is present, the action of a majority of members present is the action of the board.
- (5) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:
 - (a) Section 63A-3-106;
 - (b) Section 63A-3-107; and
 - (c) rules made by the Division of Finance under Sections 63A-3-106 and 63A-3-107.
- (6) The board and its members are considered to be a governmental entity with all of the rights, privileges, and immunities of a governmental entity of the state, including all of the rights and benefits conferred under Title 63G, Chapter 7, Governmental Immunity Act of Utah.
- (7) Meetings of the board, except to the extent necessary to protect the information identified in Subsection 63N-6-412(3), are subject to Title 52, Chapter 4, Open and Public Meetings Act.

Amended by Chapter 136, 2019 General Session

63N-6-203 Board duties and powers.

- (1) The board shall, by rule:
 - (a) establish criteria and procedures for the allocation and issuance of contingent tax credits to designated investors by means of certificates issued by the board;
 - (b) establish criteria and procedures for assessing the likelihood of future certificate redemptions by designated investors, including:
 - (i) criteria and procedures for evaluating the value of investments made by the Utah fund of funds; and
 - (ii) the returns from the Utah fund of funds;
 - (c) establish criteria and procedures for issuing, calculating, registering, and redeeming contingent tax credits by designated investors holding certificates issued by the board;
 - (d) establish a target rate of return or range of returns for the investment portfolio of the Utah fund of funds;
 - (e) establish criteria and procedures governing commitments obtained by the board from designated purchasers including:
 - (i) entering into commitments with designated purchasers; and
 - (ii) drawing on commitments to redeem certificates from designated investors;
 - (f) have power to:
 - (i) expend funds;
 - (ii) invest funds;
 - (iii) issue debt and borrow funds;
 - (iv) enter into contracts;
 - (v) insure against loss; and
 - (vi) perform any other act necessary to carry out its purpose; and

- (g) make, amend, and repeal rules for the conduct of its affairs, consistent with this part and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (2)
 - (a) All rules made by the board under Subsection (1)(g) are subject to review by the Legislative Management Committee:
 - (i) whenever made, modified, or repealed; and
 - (ii) in each even-numbered year.
 - (b) Subsection (2)(a) does not preclude the legislative Administrative Rules Review Committee from reviewing and taking appropriate action on any rule made, amended, or repealed by the board.
- (3)
 - (a) The criteria and procedures established by the board for the allocation and issuance of contingent tax credits shall include the contingencies that must be met for a certificate and its related tax credits to be:
 - (i) issued by the board;
 - (ii) transferred by a designated investor; and
 - (iii) redeemed by a designated investor in order to receive a contingent tax credit.
 - (b) The board shall tie the contingencies for redemption of certificates to:
 - (i) for a private investment initiated before July 1, 2015:
 - (A) the targeted rates of return and scheduled redemptions of equity interests purchased by designated investors in the Utah fund of funds; and
 - (B) the scheduled principal and interest payments payable to designated investors that have made loans initiated before July 1, 2014, including a loan refinanced one or more times on or after July 1, 2014, that was originated before July 1, 2014, to the Utah fund of funds; or
 - (ii) for an equity-based private investment initiated on or after July 1, 2015, the positive impact on economic development in the state that is related to the fund's investments or the success of the corporation's economic development plan in the state, including:
 - (A) encouraging the availability of a wide variety of venture capital in the state;
 - (B) strengthening the state's economy;
 - (C) helping business in the state gain access to sources of capital;
 - (D) helping build a significant, permanent source of capital available for businesses in the state; and
 - (E) creating benefits for the state while minimizing the use of contingent tax credits.
- (4)
 - (a) The board may charge a placement fee to the Utah fund of funds for the issuance of a certificate and related contingent tax credit to a designated investor.
 - (b) The fee shall:
 - (i) be charged only to pay for reasonable and necessary costs of the board; and
 - (ii) not exceed .5% of the private investment of the designated investor.
- (5) The board's criteria and procedures for redeeming certificates:
 - (a) shall give priority to the redemption amount from the available funds in the redemption reserve; and
 - (b) to the extent there are insufficient funds in the redemption reserve to redeem certificates, shall grant the board the option to redeem certificates:
 - (i) by certifying a contingent tax credit to the designated investor; or
 - (ii) by making demand on designated purchasers consistent with the requirements of Section 63N-6-409.

Amended by Chapter 214, 2019 General Session

63N-6-204 Utah Capital Investment Restricted Account.

- (1) There is created a restricted account within the General Fund known as the Utah Capital Investment Restricted Account.
- (2) The restricted account shall be funded by:
 - (a) redemption reserve money and other money from the corporation as directed by statute; and
 - (b) appropriations made to the account by the Legislature.
- (3) The state treasurer shall:
 - (a) invest money in the restricted account in accordance with Title 51, Chapter 7, State Money Management Act; and
 - (b) deposit interest or other earnings derived from investment of restricted account money into the restricted account.
- (4) Subject to appropriations by the Legislature, the restricted account shall be administered by the Governor's Office of Economic Opportunity for economic development, infrastructure, state parks, recreation, education innovation, or other purposes as directed by the Legislature.
- (5) An appropriation from the restricted account is nonlapsing.

Enacted by Chapter 438, 2021 General Session

Part 3
Utah Capital Investment Corporation

63N-6-301 Utah Capital Investment Corporation -- Powers and purposes -- Reporting requirements.

- (1)
 - (a) There is created an independent quasi-public nonprofit corporation known as the Utah Capital Investment Corporation.
 - (b) The corporation:
 - (i) may exercise all powers conferred on independent corporations under Section 63E-2-106;
 - (ii) is subject to the prohibited participation provisions of Section 63E-2-107; and
 - (iii) is subject to the other provisions of Title 63E, Chapter 2, Independent Corporations Act, except as otherwise provided in this part.
 - (c) The corporation shall file with the Division of Corporations and Commercial Code:
 - (i) articles of incorporation; and
 - (ii) any amendment to its articles of incorporation.
 - (d) In addition to the articles of incorporation, the corporation may adopt bylaws and operational policies that are consistent with this chapter.
 - (e) Except as otherwise provided in this part, this part does not exempt the corporation from the requirements under state law which apply to other corporations organized under Title 63E, Chapter 2, Independent Corporations Act.
- (2) The purposes of the corporation are to:
 - (a) organize the Utah fund of funds;
 - (b) select an investment fund allocation manager to make venture capital and private equity fund investments by the Utah fund of funds;
 - (c) negotiate the terms of a contract with the investment fund allocation manager;

- (d) execute the contract with the selected investment fund manager on behalf of the Utah fund of funds;
- (e) receive funds paid by designated investors for the issuance of certificates by the board for private investment in the Utah fund of funds;
- (f) receive investment returns from the Utah fund of funds; and
- (g) establish the redemption reserve to be used by the corporation to:
 - (i) redeem certificates; and
 - (ii) provide money for the state as directed by statute.
- (3) The corporation may not:
 - (a) exercise governmental functions;
 - (b) have members;
 - (c) pledge the credit or taxing power of the state or any political subdivision of the state; or
 - (d) make its debts payable out of any money except money of the corporation.
- (4) The obligations of the corporation are not obligations of the state or any political subdivision of the state within the meaning of any constitutional or statutory debt limitations, but are obligations of the corporation payable solely and only from the corporation's funds.
- (5) The corporation may:
 - (a) engage consultants and legal counsel;
 - (b) expend funds;
 - (c) invest funds;
 - (d) issue debt and equity, and borrow funds;
 - (e) enter into contracts;
 - (f) insure against loss;
 - (g) hire employees; and
 - (h) perform any other act necessary to carry out its purposes.
- (6)
 - (a) The corporation shall, in consultation with the board, publish on or before September 1 an annual report of the activities conducted by the Utah fund of funds and submit, in accordance with Section 68-3-14, the written report to:
 - (i) the governor;
 - (ii) the Business, Economic Development, and Labor Appropriations Subcommittee;
 - (iii) the Business and Labor Interim Committee; and
 - (iv) the Retirement and Independent Entities Interim Committee.
 - (b) The annual report shall:
 - (i) be designed to provide clear, accurate, and accessible information to the public, the governor, and the Legislature;
 - (ii) include a copy of the audit of the Utah fund of funds described in Section 63N-6-405;
 - (iii) include a detailed balance sheet, revenue and expenses statement, and cash flow statement;
 - (iv) include detailed information regarding new fund commitments made during the year, including the amount of money committed;
 - (v) include the net rate of return of the Utah fund of funds from the inception of the Utah fund of funds, after accounting for all expenses, including administrative and financing costs;
 - (vi) include detailed information regarding:
 - (A) realized gains from investments and any realized losses; and
 - (B) unrealized gains and any unrealized losses based on the net present value of ongoing investments;
 - (vii) include detailed information regarding all yearly expenditures, including:

- (A) administrative, operating, and financing costs;
- (B) aggregate compensation information for full- and part-time employees, including benefit and travel expenses; and
- (C) expenses related to the allocation manager;
- (viii) include detailed information regarding all funding sources for administrative, operations, and financing expenses, including expenses charged by or to the Utah fund of funds, including management and placement fees;
- (ix) review the progress of the investment fund allocation manager in implementing its investment plan and provide a general description of the investment plan;
- (x) for each individual fund that the Utah fund of funds is invested in that represents at least 5% of the net assets of the Utah fund of funds, include the name of the fund, the total value of the fund, the fair market value of the Utah fund of funds' investment in the fund, and the percentage of the total value of the fund held by the Utah fund of funds;
- (xi) include the number of companies in Utah where an investment was made from a fund that the Utah fund of funds is invested in, and provide an aggregate count of new full-time employees in the state added by all companies where investments were made by funds that the Utah fund of funds is invested in;
- (xii) include an aggregate total value for all funds the Utah fund of funds is invested in, and an aggregate total amount of money invested in the state by the funds the Utah fund of funds is invested in;
- (xiii) describe any redemption or transfer of a certificate issued under this part;
- (xiv) include actual and estimated potential appropriations the Legislature will be required to provide as a result of redeemed certificates or tax credits during the following five years;
- (xv) include an evaluation of the state's progress in accomplishing the purposes stated in Section 63N-6-102; and
- (xvi) be directly accessible to the public via a link from the main page of the Utah fund of fund's website.
- (c) The annual report may not identify a specific designated investor who has redeemed or transferred a certificate.
- (7)
 - (a) On or before December 1, 2021, the corporation shall provide a written report to the president of the Senate and the speaker of the House of Representatives that includes a detailed plan, time line, and recommendations for the future of the corporation.
 - (b) The plan shall include recommendations describing:
 - (i) the divestment of the state from any future liability of the corporation and a time line for realizing gains and winding down all investments from the current Utah fund of funds;
 - (ii) any plans that the corporation has to raise capital for a fund similar to the current Utah fund of funds that does not require certificates, contingent tax credits, or other guarantees from the state to be provided to equity investors;
 - (iii) whether the corporation should continue as an independent quasi-public nonprofit corporation under Title 63E, Chapter 2, Independent Corporations Act;
 - (iv) if the corporation recommends continuing as an independent quasi-public nonprofit corporation, why the corporation should continue, and what benefits the corporation will provide to the state in terms of economic development, job growth, or other benefits;
 - (v) whether the corporation should be liquidated or dissolved under Section 63N-3-306;
 - (vi) if the corporation recommends that the corporation be liquidated or dissolved, a detailed plan and time line for dissolution that includes recommendations regarding how assets and realized gains of the corporation should be distributed;

- (vii) whether the corporation should be privatized in accordance with Title 63E, Chapter 1, Part 4, Privatization of Independent Entities; and
 - (viii) if the corporation recommends that the corporation be privatized, a detailed plan and time line for privatization that includes recommendations regarding the distribution of assets and realized gains of the corporation.
- (8) In relation to the written report described in Subsection (7), the corporation:
- (a) may seek potential commitments through letters of intent or other means to demonstrate the viability of raising capital for a new fund as described in Subsection (7)(b)(ii); and
 - (b) may not enter into any binding commitments related to a new fund as described in Subsection (7)(b)(ii), unless the corporation receives specific authorization through legislation passed by the Legislature after the report described in Subsection (7) is provided.

Amended by Chapter 438, 2021 General Session

63N-6-302 Incorporator -- Appointment committee.

- (1) To facilitate the organization of the corporation, the executive director or the executive director's designee shall serve as the incorporator as provided in Section 16-6a-201.
- (2) To assist in the organization of the corporation, the Utah Board of Business and Economic Development shall appoint three individuals to serve on an appointment committee.
- (3) The appointment committee shall:
 - (a) elect the initial board of directors of the corporation;
 - (b) exercise due care to assure that persons elected to the initial board of directors have the requisite financial experience necessary in order to carry out the duties of the corporation as established in this part, including in areas related to:
 - (i) venture capital investment;
 - (ii) investment management; and
 - (iii) supervision of investment managers and investment funds; and
 - (c) terminate its existence upon the election of the initial board of directors of the corporation.
- (4) The office shall assist the incorporator and the appointment committee in any manner determined necessary and appropriate by the incorporator and appointment committee in order to administer this section.

Renumbered and Amended by Chapter 283, 2015 General Session

63N-6-303 Board of directors.

- (1) The initial board of directors of the corporation shall consist of five members.
- (2) The persons elected to the initial board of directors by the appointment committee shall include persons who have an expertise, as considered appropriate by the appointment committee, in the areas of:
 - (a) the selection and supervision of investment managers;
 - (b) fiduciary management of investment funds; and
 - (c) other areas of expertise as considered appropriate by the appointment committee.
- (3) After the election of the initial board of directors, vacancies in the board of directors of the corporation shall be filled by election by the remaining directors of the corporation.
- (4)
 - (a) Board members shall serve four-year terms, except that of the five initial members:
 - (i) two shall serve four-year terms;
 - (ii) two shall serve three-year terms; and

- (iii) one shall serve a two-year term.
- (b) Board members shall serve until their successors are elected and qualified and may serve up to a maximum of two successive terms.
- (c) A majority of the board members may remove a board member for cause.
- (d)
 - (i) The board shall select a chair by majority vote.
 - (ii) The chair's term is for one year, which may be extended annually by a majority vote of the members of the board of directors.
- (5) Three members of the board are a quorum for the transaction of business.
- (6) Members of the board of directors:
 - (a) are subject to any restrictions on conflicts of interest specified in the organizational documents of the corporation;
 - (b) shall annually disclose any venture capital and private equity interests to the corporation; and
 - (c) may not participate in a vote by the board of directors related to an investment by the Utah fund of funds, if the member has an interest in the investment.
- (7) Directors of the corporation:
 - (a) shall be compensated for direct expenses and mileage; and
 - (b) may not receive a director's fee or salary for service as directors.

Amended by Chapter 438, 2021 General Session

63N-6-304 Investment manager.

- (1) After incorporation, the corporation shall conduct a national solicitation for investment plan proposals from qualified venture capital investment fund allocation managers for the raising and investing of capital by the Utah fund of funds in accordance with the requirements of this part.
- (2) Any proposed investment plan shall address the applicant's:
 - (a) level of:
 - (i) experience; and
 - (ii) quality of management;
 - (b) investment philosophy and process;
 - (c) probability of success in fund-raising;
 - (d) prior investment fund results; and
 - (e) plan for achieving the purposes of this part.
- (3) The selected venture capital investment fund allocation manager shall have substantial, successful experience in the design, implementation, and management of seed and venture capital investment programs and in capital formation.
- (4) The corporation shall only select a venture capital investment fund allocation manager:
 - (a) with demonstrated expertise in the management and fund allocation of investments in venture capital funds; and
 - (b) considered best qualified to:
 - (i) invest the capital of the Utah fund of funds; and
 - (ii) generate the amount of capital required by this part.

Renumbered and Amended by Chapter 283, 2015 General Session

63N-6-305 Management fee -- Additional financial assistance.

- (1) The corporation may charge a management fee on assets under management in the Utah fund of funds.

- (2) The fee shall:
 - (a) be in addition to any fee charged to the Utah fund of funds by the venture capital investment fund allocation manager selected by the corporation; and
 - (b) be charged only to pay for reasonable and necessary costs of the corporation.
- (3) The corporation may apply for and, when qualified, receive financial assistance from the Industrial Assistance Account under Chapter 3, Part 1, Industrial Assistance Account, and under rules made by the Board of Business and Economic Development in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to help establish the program authorized under this part.

Renumbered and Amended by Chapter 283, 2015 General Session

63N-6-306 Dissolution.

- (1) Upon the dissolution of the Utah fund of funds, the corporation shall be liquidated and dissolved.
- (2) Upon dissolution or privatization of the corporation, any assets owned by the corporation shall be distributed to one or more Utah nonprofit tax exempt organizations to be designated by the Legislature for the purposes listed in Section 63N-6-102 as provided in Title 63E, Chapter 1, Independent Entities Act.

Renumbered and Amended by Chapter 283, 2015 General Session

Part 4

Utah Fund of Funds

63N-6-401 Organization of Utah fund of funds.

- (1) The corporation shall organize the Utah fund of funds.
- (2) The Utah fund of funds shall make investments in venture capital and private equity partnerships or entities in a manner and for the following purposes:
 - (a) to encourage the availability of a wide variety of venture capital in the state;
 - (b) to strengthen the economy of the state;
 - (c) to help business in the state gain access to sources of capital;
 - (d) to help build a significant, permanent source of capital available to serve the needs of businesses in the state; and
 - (e) to accomplish all these benefits in a way that minimizes the use of contingent tax credits.
- (3) The Utah fund of funds shall be organized:
 - (a) as a limited partnership or limited liability company under Utah law having the corporation and qualified investment professionals as the general partner or manager;
 - (b) to provide for equity interests for designated investors, which provide for a designated scheduled return and a scheduled redemption in accordance with rules made by the board pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and
 - (c) to provide for loans by or the issuance of debt obligations to designated investors that provide for designated payments of principal, interest, or interest equivalent in accordance with rules made by the board pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (4) Public money may not be invested in the Utah fund of funds.

Renumbered and Amended by Chapter 283, 2015 General Session
Amended by Chapter 420, 2015 General Session

63N-6-402 Compensation from the Utah fund of funds to the corporation -- Redemption reserve.

- (1) The corporation shall be compensated for its involvement in the Utah fund of funds through the payment of the management fee described in Section 63N-6-305.
- (2) Before any returns may be reinvested in the Utah fund of funds:
 - (a) any returns shall be paid to designated investors, including the repayment by the Utah fund of funds of any outstanding loans;
 - (b) any returns in excess of those payable to designated investors shall be deposited in the redemption reserve and shall be:
 - (i) held by the corporation as a first priority reserve for the redemption of certificates; and
 - (ii) used by the corporation to provide money for the state as directed by statute;
 - (c) any returns received by the corporation from investment of amounts held in the redemption reserve that are not used to provide money for the state as directed by statute shall be added to the redemption reserve until the redemption reserve has reached a total of \$250,000,000; and
 - (d) if at the end of a calendar year the redemption reserve exceeds the \$250,000,000 limitation referred to in Subsection (2)(c), the corporation may reinvest the excess in the Utah fund of funds.
- (3) Funds held by the corporation in the redemption reserve shall be invested in accordance with Title 51, Chapter 7, State Money Management Act.
- (4)
 - (a) By June 30, 2021, the corporation shall transfer \$20,000,000 from the redemption reserve or other assets of the corporation to the state treasurer.
 - (b) The state treasurer shall deposit the money described in Subsection (4)(a) into the restricted account.

Amended by Chapter 438, 2021 General Session

63N-6-403 Investments by Utah fund of funds.

- (1) The Utah fund of funds shall invest funds:
 - (a) principally in high-quality venture capital funds managed by investment managers who have:
 - (i) made a commitment to equity investments in businesses located within the state; and
 - (ii) have committed to maintain a physical presence within the state;
 - (b) in private venture capital funds and not in direct investments in individual businesses; and
 - (c) in venture capital funds with experienced managers or management teams with demonstrated expertise and a successful history in the investment of venture capital funds.
- (2)
 - (a) The Utah fund of funds shall give priority to investments in private seed and venture capital partnerships and entities that have demonstrated a commitment to the state as evidenced by:
 - (i) the investments they have made in Utah-based entities;
 - (ii) the correspondent relationships they have established with Utah-based venture capital funds; or
 - (iii) the commitment they have made to expand the reach of expertise within the state by adding additional investment areas of expertise.

- (b) The manager of the Utah fund of funds may waive the priorities under Subsection (2)(a) only if necessary to achieve the targeted investment returns required to attract designated investors.
- (3) The Utah fund of funds may invest funds in a newly created venture capital fund only if the managers or management team of the fund have the experience, expertise, and a successful history in the investment of venture capital funds as described in Subsection (1)(c).
- (4)
 - (a) An investment or investments by the Utah fund of funds in any venture capital fund may comprise no more than 20% of the total committed capital in the venture capital fund.
 - (b)
 - (i) No more than 50% of the funds invested by the Utah fund of funds may be made with venture capital entities with offices in the state established prior to July 1, 2002.
 - (ii) The restriction under Subsection (4)(b)(i) shall remain in place until three additional venture capital entities open new offices in the state.

Renumbered and Amended by Chapter 283, 2015 General Session

63N-6-404 Powers of Utah fund of funds.

- (1) The Utah fund of funds may:
 - (a) engage consultants and legal counsel;
 - (b) expend funds;
 - (c) invest funds;
 - (d) issue debt and borrow funds;
 - (e) enter into contracts;
 - (f) insure against loss;
 - (g) hire employees;
 - (h) issue equity interests to designated investors that have purchased equity interest certificates from the board; and
 - (i) perform any other act necessary to carry out its purposes.
- (2)
 - (a) The Utah fund of funds shall engage a venture capital investment fund allocation manager.
 - (b) The compensation paid to the fund manager shall be in addition to the management fee paid to the corporation under Section 63N-6-305.
- (3) The Utah fund of funds may:
 - (a) open and manage bank and short-term investment accounts as considered necessary by the venture capital investment fund allocation manager; and
 - (b) expend money to secure investment ratings for investments by designated investors in the Utah fund of funds.

Renumbered and Amended by Chapter 283, 2015 General Session

63N-6-405 Annual audits.

- (1) Each calendar year, an audit of the activities of the Utah fund of funds shall be made as described in this section.
- (2)
 - (a) The audit shall be conducted by:
 - (i) the state auditor; or
 - (ii) an independent auditor engaged by the state auditor.

- (b) An independent auditor used under Subsection (2)(a)(ii) must have no business, contractual, or other connection to:
 - (i) the corporation; or
 - (ii) the Utah fund of funds.
- (3) The corporation shall pay the costs associated with the annual audit.
- (4) The annual audit report shall:
 - (a) be delivered to:
 - (i) the corporation; and
 - (ii) the board;
 - (b) include a valuation of the assets owned by the Utah fund of funds as of the end of the reporting year;
 - (c) include an opinion regarding the accuracy of the information provided in the annual report described in Subsection 63N-6-301(6);
 - (d) include an opinion regarding the accuracy of the information that supports the economic development impact in the state of the Utah fund of funds as described in Subsections 63N-6-203(3)(b)(ii) and 63N-6-406(3); and
 - (e) be completed on or before September 1 for the previous calendar year so that it may be included in the annual report described in Subsection 63N-6-301(6).

Renumbered and Amended by Chapter 283, 2015 General Session
Amended by Chapter 420, 2015 General Session

63N-6-406 Certificates and contingent tax credits.

- (1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board, in consultation with the State Tax Commission, shall make rules governing the application for, form, issuance, transfer, and redemption of certificates.
- (2) The board's issuance of certificates and related contingent tax credits to designated investors is subject to the following:
 - (a) the aggregate outstanding certificates may not exceed a total of:
 - (i) \$130,000,000 of contingent tax credits used as collateral or a guarantee on loans for the debt-based financing of investments in the Utah fund of funds initiated before July 1, 2014, or \$120,000,000 of contingent tax credits for a loan refinanced using debt- or equity-based financing as described in Subsection (2)(e); and
 - (ii) \$100,000,000 used as an incentive for equity investments in the Utah fund of funds;
 - (b) the board shall issue a certificate contemporaneously with a debt-based investment in the Utah fund of funds by a designated investor, including a refinanced loan as described in Subsection (2)(e);
 - (c) the board shall issue contingent tax credits in a manner that not more than \$20,000,000 of contingent tax credits for each \$100,000,000 increment of contingent tax credits may be redeemable in a fiscal year;
 - (d) the credits are certifiable if there are insufficient funds in the redemption reserve to make a cash redemption and the board does not exercise its other options under Subsection 63N-6-408(3)(b);
 - (e) the board may not issue additional certificates as collateral or a guarantee on a loan for the debt-based financing of investments in the Utah fund of funds that is initiated after July 1, 2014, except for a loan that was originated before July 1, 2014, and that is refinanced one or more times using debt- or equity-based financing:
 - (i) on or after July 1, 2014; and

- (ii) before January 1, 2021;
- (f) after July 1, 2014, the board may issue certificates that represent no more than 100% of the principal of each equity investment in the Utah fund of funds; and
- (g) after January 1, 2021, the board may no longer issue certificates:
 - (i) as collateral or a guarantee on a loan for debt-based financing on investments in the Utah fund of funds; or
 - (ii) related to equity-based private investments in the Utah fund of funds.
- (3) For an equity-based private investment initiated on or after July 1, 2015, and before January 1, 2021, the applicable designated investor may apply for a tax credit if the following criteria are met:
 - (a) the Utah fund of funds has received payment from the designated investor as set forth in the investor's agreement with the Utah fund of funds;
 - (b) the designated investor has not received a return of the initial equity investment in the time established in the investor's agreement with the Utah fund of funds;
 - (c) there are insufficient funds in the redemption reserve to make a cash redemption and the board does not exercise its other options under Subsection 63N-6-408(3)(b); and
 - (d) there is a demonstrated positive impact on economic development in the state related to the Utah fund of funds' investments or the success of the corporation's economic development plan in the state, which shall be measured by:
 - (i) a method to calculate the impact on economic development in the state, established by rule; and
 - (ii) the corporation, with approval of the board, engaging an independent third party to evaluate the Utah fund of funds and determine the economic impact of the Utah fund of funds and the activities of the corporation as further described in Section 63N-6-203 and board rules.
- (4) In determining the maximum limits in Subsections (2)(a)(i) and (ii) and the \$20,000,000 limitation for each \$100,000,000 increment of contingent tax credits in Subsection (2)(c):
 - (a) the board shall use the cumulative amount of scheduled aggregate returns on certificates issued by the board to designated investors;
 - (b) certificates and related contingent tax credits that have expired may not be included; and
 - (c) certificates and related contingent tax credits that have been redeemed shall be included only to the extent of tax credits actually allowed.
- (5) Contingent tax credits are subject to the following:
 - (a) a contingent tax credit may not be redeemed except by a designated investor in accordance with the terms of a certificate from the board;
 - (b) a contingent tax credit may not be redeemed prior to the time the Utah fund of funds receives full payment from the designated investor for the certificate as established in the agreement with the Utah fund of funds;
 - (c) a contingent tax credit shall be claimed for a tax year that begins during the calendar year maturity date stated on the certificate;
 - (d) an investor who redeems a certificate and the related contingent tax credit shall allocate the amount of the contingent tax credit to the taxpayers of the investor based on the taxpayer's pro rata share of the investor's earnings; and
 - (e) a contingent tax credit shall be claimed as a refundable credit.
- (6) In calculating the amount of a contingent tax credit:
 - (a) the board shall certify a contingent tax credit only if the actual return, or payment of principal and interest for a loan initiated before July 1, 2014, including a loan refinanced one or more times on or after July 1, 2014, that was originated before July 1, 2014, to the designated investor is less than that targeted at the issuance of the certificate;

- (b) the amount of the contingent tax credit for a designated investor with an equity interest may not exceed the difference between the actual principal investment of the designated investor in the Utah fund of funds and the aggregate actual return received by the designated investor and any predecessor in interest of the initial equity investment and interest on the initial equity investment;
 - (c) the rates, whether fixed rates or variable rates, shall be determined by a formula stipulated in the certificate; and
 - (d) the amount of the contingent tax credit for a designated investor with an outstanding loan to the Utah fund of funds initiated before July 1, 2014, including a loan refinanced one or more times on or after July 1, 2014, that was originated before July 1, 2014, may be equal to no more than the amount of any principal, interest, or interest equivalent unpaid at the redemption of the loan or other obligation, as stipulated in the certificate.
- (7) The board shall clearly indicate on the certificate:
- (a) the targeted return on the invested capital, if the private investment is an equity interest;
 - (b) the payment schedule of principal, interest, or interest equivalent, if the private investment is a loan initiated before July 1, 2014, including a loan refinanced one or more times on or after July 1, 2014, that was originated before July 1, 2014;
 - (c) the amount of the initial private investment;
 - (d) the calculation formula for determining the scheduled aggregate return on the initial equity investment, if applicable; and
 - (e) the calculation formula for determining the amount of the contingent tax credit that may be claimed.
- (8) Once a certificate is issued, a certificate:
- (a) is binding on the board; and
 - (b) may not be modified, terminated, or rescinded.
- (9) Funds invested by a designated investor for a certificate shall be paid to the corporation for placement in the Utah fund of funds.
- (10) The State Tax Commission may, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and in consultation with the board, make rules to help implement this section.

Amended by Chapter 438, 2021 General Session

63N-6-407 Transfer and registration of certificates.

- (1) A certificate and the related contingent tax credit may be transferred by the designated investor.
- (2) The board, in conjunction with the State Tax Commission, shall develop:
 - (a) a system for registration of any certificate and related contingent tax credit issued or transferred under this part; and
 - (b) a system that permits verification that:
 - (i) any contingent tax credit claimed is valid; and
 - (ii) any transfers of the certificate and related contingent tax credit are made in accordance with the requirements of this part.
- (3) A certificate or contingent tax credit issued or transferred under this part may not be considered a security under Title 61, Chapter 1, Utah Uniform Securities Act.

Renumbered and Amended by Chapter 283, 2015 General Session

63N-6-408 Redemption of certificates.

- (1) If a designated investor elects to redeem a certificate, the certificate shall be presented to the board for redemption no later than June 30 of the calendar year maturity date stated on the certificate.
- (2) Upon presentment to the board, it shall determine and certify the amount of the contingent tax credit that may be claimed by the designated investor based on:
 - (a) the limitations in Section 63N-6-406; and
 - (b) rules made by the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (3)
 - (a) If there are sufficient funds in the redemption reserve, the board shall direct the corporation to make a cash redemption of the certificate.
 - (b) If there are insufficient funds in the redemption reserve, the board may elect to redeem the certificate:
 - (i) by certifying a contingent tax credit to the designated investor; or
 - (ii) by making demand on designated purchasers to purchase certificates in accordance with Section 63N-6-409.
- (4) The board shall certify to the State Tax Commission the contingent tax credit which can be claimed by the designated investor with respect to the redemption of the certificate.
- (5) The board shall cancel all redeemed certificates.

Renumbered and Amended by Chapter 283, 2015 General Session

63N-6-409 Use of commitments to redeem certificates.

- (1) The board may elect to draw on a commitment to redeem a certificate from a designated investor.
- (2) If the board makes an election under Subsection (1), it shall:
 - (a) inform the designated purchaser of the amount of the contingent tax credit that must be purchased from the board;
 - (b) specify the date on which the purchase must be consummated; and
 - (c) use the funds delivered to the board by the designated purchaser to redeem the certificate from the designated investor.
- (3) The board has discretion in determining which commitment or commitments and what portion of those commitments to use to redeem certificates.
- (4) The contingent tax credits acquired by a designated purchaser under this section are subject to Section 63N-6-406.

Renumbered and Amended by Chapter 283, 2015 General Session

63N-6-410 Powers and effectiveness.

- (1) This chapter may not be construed as a restriction or limitation upon any power which the board might otherwise have under any other law of this state and the provisions of this chapter are cumulative to those powers.
- (2) This chapter shall be construed to provide a complete, additional, and alternative method for performing the duties authorized and shall be regarded as supplemental and additional powers to those conferred by any other laws.
- (3) With respect to a debt-based private investment only, the provisions of any contract entered into by the board or the Utah fund of funds may not be compromised, diminished, invalidated, or affected by the:

- (a) level, timing, or degree of success of the Utah fund of funds or the investment funds in which the Utah fund of funds invests; or
- (b) extent to which the investment funds are:
 - (i) invested in Utah venture capital projects; or
 - (ii) successful in accomplishing any economic development objectives.

Renumbered and Amended by Chapter 283, 2015 General Session
Amended by Chapter 420, 2015 General Session

63N-6-411 Permissible investments.

Investments by designated investors in the Utah fund of funds are permissible investments under applicable laws of the state for:

- (1) state-chartered banks;
- (2) state-chartered credit unions;
- (3) state-chartered industrial banks; and
- (4) domestic insurance companies.

Renumbered and Amended by Chapter 283, 2015 General Session

63N-6-412 Exemption from certain statutes.

- (1) Except as otherwise provided in this part, the corporation is exempt from statutes governing state agencies, as provided in Section 63E-2-109.
- (2) The corporation is exempt from:
 - (a) Title 52, Chapter 4, Open and Public Meetings Act; and
 - (b) Title 63G, Chapter 2, Government Records Access and Management Act.
- (3) The board is exempt from the requirement to report fund performance of venture firms and private equity firms set forth in Title 63G, Chapter 2, Government Records Access and Management Act.

Renumbered and Amended by Chapter 283, 2015 General Session

Chapter 7 Tourism Development

Part 1 Board of Tourism Development

63N-7-101 Board of Tourism Development.

- (1) This chapter is known as "Tourism Development."
- (2) There is created within the office the Board of Tourism Development.
- (3) The board shall advise the office on the office's planning, policies, and strategies and on trends and opportunities for tourism development that may exist in the various areas of the state.
- (4) The board shall perform other duties as required by Section 63N-7-103.

Renumbered and Amended by Chapter 283, 2015 General Session

63N-7-102 Members -- Meetings -- Expenses.

- (1)
 - (a) The board shall consist of 13 members appointed by the governor to four-year terms with the advice and consent of the Senate.
 - (b) Notwithstanding the requirements of Subsection (1)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.
- (2) The members may not serve more than two full consecutive terms unless the governor determines that an additional term is in the best interest of the state.
- (3) Not more than seven members of the board may be of the same political party.
- (4)
 - (a) The members shall be representative of:
 - (i) all areas of the state with six being appointed from separate geographical areas as provided in Subsection (4)(b); and
 - (ii) a diverse mix of business ownership or executive management of tourism related industries.
 - (b) The geographical representatives shall be appointed as follows:
 - (i) one member from Salt Lake, Tooele, or Morgan County;
 - (ii) one member from Davis, Weber, Box Elder, Cache, or Rich County;
 - (iii) one member from Utah, Summit, Juab, or Wasatch County;
 - (iv) one member from Carbon, Emery, Grand, Duchesne, Daggett, or Uintah County;
 - (v) one member from San Juan, Piute, Wayne, Garfield, or Kane County; and
 - (vi) one member from Washington, Iron, Beaver, Sanpete, Sevier, or Millard County.
 - (c) The tourism industry representatives of ownership or executive management shall be appointed as follows:
 - (i) one member from ownership or executive management of the lodging industry, as recommended by the lodging industry for the governor's consideration;
 - (ii) one member from ownership or executive management of the restaurant industry, as recommended by the restaurant industry for the governor's consideration;
 - (iii) one member from ownership or executive management of the ski industry, as recommended by the ski industry for the governor's consideration; and
 - (iv) one member from ownership or executive management of the motor vehicle rental industry, as recommended by the motor vehicle rental industry for the governor's consideration.
 - (d) One member shall be appointed at large from ownership or executive management of business, finance, economic policy, or the academic media marketing community.
 - (e) One member shall be appointed from the Utah Tourism Industry Coalition as recommended by the coalition for the governor's consideration.
 - (f) One member shall be appointed to represent the state's counties as recommended by the Utah Association of Counties for the governor's consideration.
- (g)
 - (i) The governor may choose to disregard a recommendation made for a board member under Subsections (4)(c), (e), and (f).
 - (ii) The governor shall request additional recommendations if recommendations are disregarded under Subsection (4)(g)(i).
- (5) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term from the same geographic area or industry representation as the member whose office was vacated.

- (6) Seven members of the board constitute a quorum for conducting board business and exercising board powers.
- (7) The governor shall select one of the board members as chair and one of the board members as vice chair, each for a four-year term as recommended by the board for the governor's consideration.
- (8) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:
 - (a) Section 63A-3-106;
 - (b) Section 63A-3-107; and
 - (c) rules made by the Division of Finance under Sections 63A-3-106 and 63A-3-107.
- (9) The board shall meet monthly or as often as the board determines to be necessary at various locations throughout the state.
- (10) Members who may have a potential conflict of interest in consideration of fund allocation decisions shall identify the potential conflict prior to voting on the issue.
- (11)
 - (a) The board shall determine attendance requirements for maintaining a designated board seat.
 - (b) If a board member fails to attend according to the requirements established pursuant to Subsection (11)(a), the board member shall be replaced upon written certification from the board chair or vice chair to the governor.
 - (c) A replacement appointed by the governor under Subsection (11)(b) shall serve for the remainder of the board member's unexpired term.
- (12) The board's office shall be in Salt Lake City.

Amended by Chapter 352, 2020 General Session

63N-7-103 Board duties.

- (1) The Board of Tourism Development:
 - (a) has authority to approve a tourism program of out-of-state advertising, marketing, and branding, taking into account the long-term strategic plan, economic trends, and opportunities for tourism development on a statewide basis, as a condition of the distribution of funds to the office from the:
 - (i) Tourism Marketing Performance Account created in Section 63N-7-301; and
 - (ii) Stay Another Day and Bounce Back Account, created in Section 63N-2-511;
 - (b) shall review office programs to coordinate and integrate advertising and branding themes, which may include recreational, scenic, historic, and tourist attractions of the state, to be used in office programs;
 - (c) shall encourage and assist in coordinating activities of persons, firms, associations, corporations, civic groups, and governmental agencies that are engaged in publicizing, developing, and promoting the scenic attractions and tourist advantages of the state; and
 - (d) shall advise the office in establishing a cooperative program using funds from the Tourism Marketing Performance Account created in Section 63N-7-301.
- (2) The board may:
 - (a) solicit and accept contributions of money, services, and facilities from any other sources, public or private and shall use these funds for promoting the general interest of the state in tourism; and
 - (b) establish subcommittees for the purpose of assisting the board in an advisory role.
- (3) The Board of Tourism Development may not, except as otherwise provided in Subsection (1)
 - (a), make policy related to the management or operation of the office.

Amended by Chapter 154, 2020 General Session

Part 2

Powers and Duties of Office

63N-7-201 Powers and duties of office related to tourism development plan -- Annual report and survey.

- (1) The office shall:
 - (a) be the tourism development authority of the state;
 - (b) develop a tourism advertising, marketing, and branding program for the state;
 - (c) receive approval from the Board of Tourism Development under Subsection 63N-7-103(1)(a) before implementing the out-of-state advertising, marketing, and branding campaign;
 - (d) develop a plan to increase the economic contribution by tourists visiting the state;
 - (e) plan and conduct a program of information, advertising, and publicity relating to the recreational, scenic, historic, and tourist advantages and attractions of the state at large; and
 - (f) encourage and assist in the coordination of the activities of persons, firms, associations, corporations, travel regions, counties, and governmental agencies engaged in publicizing, developing, and promoting the scenic attractions and tourist advantages of the state.
- (2) Any plan provided for under Subsection (1) shall address, but not be limited to, enhancing the state's image, promoting Utah as a year-round destination, encouraging expenditures by visitors to the state, and expanding the markets where the state is promoted.
- (3) The office shall:
 - (a) conduct a regular and ongoing research program to identify statewide economic trends and conditions in the tourism sector of the economy; and
 - (b) include in the annual written report described in Section 63N-1a-306, a report on the economic efficiency of the advertising and branding campaigns conducted under this part.

Amended by Chapter 282, 2021 General Session

63N-7-202 Agreements with other governmental entities.

The office may enter into agreements with state or federal agencies to accept services, quarters, or facilities as a contribution in carrying out the duties and functions of the office.

Renumbered and Amended by Chapter 283, 2015 General Session

Part 3

Tourism Marketing Performance Account

63N-7-301 Tourism Marketing Performance Account.

- (1) There is created within the General Fund a restricted account known as the Tourism Marketing Performance Account.
- (2) The account shall be administered by GOED for the purposes listed in Subsection (5).
- (3)
 - (a) The account shall earn interest.

- (b) All interest earned on account money shall be deposited into the account.
- (4) The account shall be funded by appropriations made to the account by the Legislature in accordance with this section.
- (5) The executive director of GOED's Office of Tourism shall use account money appropriated to GOED to pay for the statewide advertising, marketing, and branding campaign for promotion of the state as conducted by GOED.
- (6)
 - (a) For each fiscal year beginning on or after July 1, 2007, GOED shall annually allocate 10% of the account money appropriated to GOED to a sports organization for advertising, marketing, branding, and promoting Utah in attracting sporting events into the state.
 - (b) The sports organization shall:
 - (i) provide an annual written report to GOED that gives an accounting of the use of funds the sports organization receives under this Subsection (6); and
 - (ii) promote the state and encourage economic growth in the state.
 - (c) For purposes of this Subsection (6), "sports organization" means an organization that:
 - (i) is exempt from federal income taxation in accordance with Section 501(c)(3), Internal Revenue Code;
 - (ii) maintains its principal location in the state;
 - (iii) has a minimum of 15 years experience in the state hosting, fostering, and attracting major summer and winter sporting events statewide; and
 - (iv) was created to foster state, regional, national, and international sports competitions in the state, to drive the state's Olympic and sports legacy, including competitions related to Olympic sports, and to promote and encourage sports tourism throughout the state, including advertising, marketing, branding, and promoting the state for the purpose of attracting sporting events in the state.
- (7) Money deposited into the account shall include a legislative appropriation from the cumulative sales and use tax revenue increases described in Subsection (8), plus any additional appropriation made by the Legislature.
- (8)
 - (a) In fiscal years 2006 through 2019, a portion of the state sales and use tax revenues determined under this Subsection (8) shall be certified by the State Tax Commission as a set-aside for the account, and the State Tax Commission shall report the amount of the set-aside to the office, the Office of Legislative Fiscal Analyst, and the Division of Finance, which shall set aside the certified amount for appropriation to the account.
 - (b) For fiscal years 2016 through 2019, the State Tax Commission shall calculate the set-aside under this Subsection (8) in each fiscal year by applying one of the following formulas: if the annual percentage change in the Consumer Price Index for All Urban Consumers, as published by the Bureau of Labor Statistics of the United States Department of Labor, for the fiscal year two years before the fiscal year in which the set-aside is to be made is:
 - (i) greater than 3%, and if the annual percentage change in the state sales and use tax revenues attributable to the retail sales of tourist-oriented goods and services from the fiscal year three years before the fiscal year in which the set-aside is to be made to the fiscal year two years before the fiscal year in which the set-aside is to be made is greater than the annual percentage change in the Consumer Price Index for the fiscal year two years before the fiscal year in which the set-aside is to be made, then the difference between the annual percentage change in the state sales and use tax revenues attributable to the retail sales of tourist-oriented goods and services and the annual percentage change in the Consumer Price Index shall be multiplied by an amount equal to the state sales and use tax revenues

attributable to the retail sales of tourist-oriented goods and services from the fiscal year three years before the fiscal year in which the set-aside is to be made; or

- (ii) 3% or less, and if the annual percentage change in the state sales and use tax revenues attributable to the retail sales of tourist-oriented goods and services from the fiscal year three years before the fiscal year in which the set-aside is to be made to the fiscal year two years before the fiscal year in which the set-aside is to be made is greater than 3%, then the difference between the annual percentage change in the state sales and use tax revenues attributable to the retail sales of tourist-oriented goods and services and 3% shall be multiplied by an amount equal to the state sales and use tax revenues attributable to the retail sales of tourist-oriented goods and services from the fiscal year three years before the fiscal year in which the set-aside is to be made.
 - (c) The total money appropriated to the account in a fiscal year under Subsections (8)(a) and (b) may not exceed the amount appropriated to the account in the preceding fiscal year by more than \$3,000,000.
 - (d) As used in this Subsection (8), "state sales and use tax revenues" are revenues collected under Subsections 59-12-103(2)(a)(i)(A) and 59-12-103(2)(c)(i).
 - (e) As used in this Subsection (8), "retail sales of tourist-oriented goods and services" are calculated by adding the following percentages of sales from each business registered with the State Tax Commission under one of the following codes of the 2012 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget:
 - (i) 80% of the sales from each business under NAICS Codes:
 - (A) 532111 Passenger Car Rental;
 - (B) 53212 Truck, Utility Trailer, and RV (Recreational Vehicle) Rental and Leasing;
 - (C) 5615 Travel Arrangement and Reservation Services;
 - (D) 7211 Traveler Accommodation; and
 - (E) 7212 RV (Recreational Vehicle) Parks and Recreational Camps;
 - (ii) 25% of the sales from each business under NAICS Codes:
 - (A) 51213 Motion Picture and Video Exhibition;
 - (B) 532292 Recreational Goods Rental;
 - (C) 711 Performing Arts, Spectator Sports, and Related Industries;
 - (D) 712 Museums, Historical Sites, and Similar Institutions; and
 - (E) 713 Amusement, Gambling, and Recreation Industries;
 - (iii) 20% of the sales from each business under NAICS Code 722 Food Services and Drinking Places;
 - (iv) 18% of the sales from each business under NAICS Codes:
 - (A) 447 Gasoline Stations; and
 - (B) 81293 Parking Lots and Garages;
 - (v) 14% of the sales from each business under NAICS Code 8111 Automotive Repair and Maintenance; and
 - (vi) 5% of the sales from each business under NAICS Codes:
 - (A) 445 Food and Beverage Stores;
 - (B) 446 Health and Personal Care Stores;
 - (C) 448 Clothing and Clothing Accessories Stores;
 - (D) 451 Sporting Goods, Hobby, Musical Instrument, and Book Stores;
 - (E) 452 General Merchandise Stores; and
 - (F) 453 Miscellaneous Store Retailers.
- (9)

- (a) For each fiscal year, the office shall allocate 20% of the funds appropriated to the Tourism Marketing and Performance Account to the cooperative program described in this Subsection (9).
- (b) Money allocated to the cooperative program may be awarded to cities, counties, nonprofit destination marketing organizations, and similar public entities for the purpose of supplementing money committed by these entities for advertising and promoting sites and events in the state.
- (c) The office shall establish:
 - (i) an application and approval process for an entity to receive a cooperative program award, including an application deadline;
 - (ii) the criteria for awarding a cooperative program award, which shall emphasize attracting out-of-state visitors, and may include attracting in-state visitors, to sites and events in the state; and
 - (iii) eligibility, advertising, timing, and reporting requirements of an entity that receives a cooperative program award.
- (d) Money allocated to the cooperative program that is not used in each fiscal year shall be returned to the Tourism Marketing Performance Account.

Amended by Chapter 154, 2020 General Session

Chapter 8

Motion Picture Incentives

63N-8-101 Title -- Purpose.

- (1) This chapter is known as "Motion Picture Incentives."
- (2) The Legislature finds that:
 - (a) the state's natural beauty, scenic wonders, and diverse topography provide a variety of magnificent settings from which the motion picture industry can choose to film part or all of major or independent motion pictures, made-for-television movies, and television series;
 - (b) the state has an abundance of resources, including a skilled and able workforce, the required infrastructure, and a friendly and hospitable populace that have been instrumental in the filming of hundreds of successful motion pictures and several television series; and
 - (c) further development of the motion picture industry in Utah is a state public purpose that will significantly impact growth in the state's economy and contribute to the fiscal well being of the state and its people.
- (3) The purpose of this chapter is to:
 - (a) encourage the use of Utah as a site for the production of motion pictures, television series, and made-for-television movies;
 - (b) provide financial incentives to the film industry so that Utah might compete successfully with other states and countries for filming locations; and
 - (c) help develop a strong motion picture industry presence in the state that will contribute substantially to improving the state's economy.

Renumbered and Amended by Chapter 283, 2015 General Session

63N-8-102 Definitions.

As used in this chapter:

- (1) "Digital media company" means a company engaged in the production of a digital media project.
- (2) "Digital media project" means all or part of a production of interactive entertainment or animated production that is produced for distribution in commercial or educational markets, which shall include projects intended for Internet or wireless distribution.
- (3) "Dollars left in the state" means expenditures made in the state for a state-approved production, including:
 - (a) an expenditure that is subject to:
 - (i) a corporate franchise or income tax under Title 59, Chapter 7, Corporate Franchise and Income Taxes;
 - (ii) an individual income tax under Title 59, Chapter 10, Individual Income Tax Act; and
 - (iii) a sales and use tax under Title 59, Chapter 12, Sales and Use Tax Act, notwithstanding any sales and use tax exemption allowed by law; or
 - (iv) a combination of Subsections (3)(a)(i), (ii), and (iii);
 - (b) payments made to a nonresident only to the extent of the income tax paid to the state on the payments, the amount of per diems paid in the state, and other direct reimbursements transacted in the state; and
 - (c) payments made to a payroll company or loan-out corporation that is registered to do business in the state, only to the extent of the amount of withholding under Section 59-10-402.
- (4) "Loan-out corporation" means a corporation owned by one or more artists that provides services of the artists to a third party production company.
- (5) "Motion picture company" means a company engaged in the production of:
 - (a) motion pictures;
 - (b) television series; or
 - (c) made-for-television movies.
- (6) "Motion picture incentive" means either a cash rebate from the Motion Picture Incentive Account or a refundable tax credit under Section 59-7-614.5 or 59-10-1108.
- (7) "New state revenues" means:
 - (a) incremental new state sales and use tax revenues generated as a result of a digital media project that a digital media company pays under Title 59, Chapter 12, Sales and Use Tax Act;
 - (b) incremental new state tax revenues that a digital media company pays as a result of a digital media project under:
 - (i) Title 59, Chapter 7, Corporate Franchise and Income Taxes;
 - (ii) Title 59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and Information;
 - (iii) Title 59, Chapter 10, Part 2, Trusts and Estates;
 - (iv) Title 59, Chapter 10, Part 4, Withholding of Tax; or
 - (v) a combination of Subsections (7)(b)(i), (ii), (iii), and (iv);
 - (c) incremental new state revenues generated as individual income taxes under Title 59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and Information, paid by employees of the new digital media project as evidenced by payroll records from the digital media company; or
 - (d) a combination of Subsections (7)(a), (b), and (c).
- (8) "Payroll company" means a business entity that handles the payroll and becomes the employer of record for the staff, cast, and crew of a motion picture production.
- (9) "Refundable tax credit" means a refundable motion picture tax credit authorized under Section 63N-8-103 and claimed under Section 59-7-614.5 or 59-10-1108.

- (10) "Restricted account" means the Motion Picture Incentive Account created in Section 63N-8-103.
- (11) "State-approved production" means a production under Subsections (2) and (5) that is:
 - (a) approved by the office and ratified by the GO Utah board; and
 - (b) produced in the state by a motion picture company.
- (12) "Tax credit amount" means the amount the office lists as a tax credit on a tax credit certificate for a taxable year.
- (13) "Tax credit certificate" means a certificate issued by the office that:
 - (a) lists the name of the applicant;
 - (b) lists the applicant's taxpayer identification number;
 - (c) lists the amount of tax credit that the office awards the applicant for the taxable year; and
 - (d) may include other information as determined by the office.

Amended by Chapter 282, 2021 General Session

63N-8-103 Motion Picture Incentive Account created -- Cash rebate incentives -- Refundable tax credit incentives.

- (1)
 - (a) There is created within the General Fund a restricted account known as the Motion Picture Incentive Account, which the office shall use to provide cash rebate incentives for state-approved productions by a motion picture company.
 - (b) All interest generated from investment of money in the restricted account shall be deposited in the restricted account.
 - (c) The restricted account shall consist of an annual appropriation by the Legislature.
 - (d) The office shall:
 - (i) with the advice of the GO Utah board, administer the restricted account; and
 - (ii) make payments from the restricted account as required under this section.
 - (e) The cost of administering the restricted account shall be paid from money in the restricted account.
- (2)
 - (a) A motion picture company or digital media company seeking disbursement of an incentive allowed under an agreement with the office shall follow the procedures and requirements of this Subsection (2).
 - (b) The motion picture company or digital media company shall provide the office with an incentive request form, provided by the office, identifying and documenting the dollars left in the state and new state revenues generated by the motion picture company or digital media company for state-approved production, including any related tax returns by the motion picture company, payroll company, digital media company, or loan-out corporation under Subsection (2)(d).
 - (c) For a motion picture company, an independent certified public accountant shall:
 - (i) review the incentive request form submitted by the motion picture company; and
 - (ii) provide a report on the accuracy and validity of the incentive request form, including the amount of dollars left in the state, in accordance with the agreed upon procedures established by the office by rule.
 - (d) The motion picture company, digital media company, payroll company, or loan-out corporation shall provide the office with a document that expressly directs and authorizes the State Tax Commission to disclose the entity's tax returns and other information concerning

the entity that would otherwise be subject to confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code, to the office.

- (e) The office shall submit the document described in Subsection (2)(d) to the State Tax Commission.
- (f) Upon receipt of the document described in Subsection (2)(d), the State Tax Commission shall provide the office with the information requested by the office that the motion picture company, digital media company, payroll company, or loan-out corporation directed or authorized the State Tax Commission to provide to the office in the document described in Subsection (2)(d).
- (g) Subject to Subsection (3), for a motion picture company the office shall:
 - (i) review the incentive request form from the motion picture company described in Subsection (2)(b) and verify that the incentive request form was reviewed by an independent certified public accountant as described in Subsection (2)(c); and
 - (ii) based upon the independent certified public accountant's report under Subsection (2)(c), determine the amount of the incentive that the motion picture company is entitled to under the motion picture company's agreement with the office.
- (h) Subject to Subsection (3), for a digital media company, the office shall:
 - (i) ensure the digital media project results in new state revenues; and
 - (ii) based upon review of new state revenues, determine the amount of the incentive that a digital media company is entitled to under the digital media company's agreement with the office.
- (i) Subject to Subsection (3), if the incentive is in the form of a cash rebate, the office shall pay the incentive from the restricted account to the motion picture company, notwithstanding Subsections 51-5-3(23)(b) and 63J-1-105(6).
- (j) If the incentive is in the form of a refundable tax credit under Section 59-7-614.5 or 59-10-1108, the office shall:
 - (i) issue a tax credit certificate to the motion picture company or digital media company; and
 - (ii) provide a digital record of the tax credit certificate to the State Tax Commission.
- (k) A motion picture company or digital media company may not claim a motion picture tax credit under Section 59-7-614.5 or 59-10-1108 unless the motion picture company or digital media company has received a tax credit certificate for the claim issued by the office under Subsection (2)(j)(i).
- (l) A motion picture company or digital media company may claim a motion picture tax credit on the motion picture company's or the digital media company's tax return for the amount listed on the tax credit certificate issued by the office.
- (m) A motion picture company or digital media company that claims a tax credit under Subsection (2)(l) shall retain the tax credit certificate and all supporting documentation in accordance with Subsection 63N-8-104(6).
- (3)
 - (a) Subject to Subsections (3)(b) and (c), the office may issue \$6,793,700 in tax credit certificates under this part in each fiscal year.
 - (b) For the fiscal year ending June 30, 2022, the office may issue \$8,393,700 in tax credit certificates under this part.
 - (c) If the office does not issue tax credit certificates in a fiscal year totaling the amount authorized under Subsections (3)(a) and (b), the office may carry over that amount for issuance in subsequent fiscal years.

Amended by Chapter 282, 2021 General Session

Amended by Chapter 436, 2021 General Session

63N-8-104 Motion picture incentives -- Standards to qualify for an incentive -- Limitations -- Content of agreement between office and motion picture company or digital media company.

- (1) In addition to the requirements for receiving a motion picture incentive as set forth in this part, the office, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall make rules establishing:
 - (a) the standards that a motion picture company or digital media company must meet to qualify for the motion picture incentive; and
 - (b) criteria for determining the amount of the incentive.
- (2) The office shall ensure that those standards include the following:
 - (a) an incentive may only be issued for a state-approved production by a motion picture company or digital media company;
 - (b) financing has been obtained and is in place for the production; and
 - (c) the economic impact of the production on the state represents new incremental economic activity in the state as opposed to existing economic activity.
- (3) With respect to a digital media project, the office shall consider economic modeling, including the costs and benefits of the digital media project to state and local governments in determining the motion picture incentive amount.
- (4) The office may also consider giving preference to a production that stimulates economic activity in rural areas of the state or that has Utah content, such as recognizing that the production was made in the state or uses Utah as Utah in the production.
- (5)
 - (a) The office, with advice from the GO Utah board, may enter into an agreement with a motion picture company or digital media company that meets the standards established under this section and satisfies the other qualification requirements under this part.
 - (b) Subject to Subsection 63N-8-103(3), the office may commit or authorize a motion picture incentive:
 - (i) to a motion picture company of up to 20% of the dollars left in the state by the motion picture company, and a motion picture company can receive an additional 5%, not to exceed 25% of the dollars left in the state by the motion picture company if the company fulfills certain requirements determined by the office including:
 - (A) employing a significant percentage of cast and crew from Utah;
 - (B) highlighting the state of Utah and the Utah Film Commission in the motion picture credits;or
 - (C) other promotion opportunities as agreed upon by the office and the motion picture company; and
 - (ii) to a digital media company, if the incentive does not exceed 100% of the new state revenue less the considerations under Subsection (3), but not to exceed 20% of the dollars left in the state by the digital media company.
 - (c) The office may not give a cash rebate incentive from the Motion Picture Incentive Restricted Account for a digital media project.
- (6) The office shall ensure that the agreement entered into with a motion picture company or digital media company under Subsection (5)(a):
 - (a) details the requirements that the motion picture company or digital media company must meet to qualify for an incentive under this part;
 - (b) specifies:

- (i) the nature of the incentive; and
- (ii) the maximum amount of the motion picture incentive that the motion picture company or digital media company may earn for a taxable year and over the life of the production;
- (c) establishes the length of time over which the motion picture company or digital media company may claim the motion picture incentive;
- (d) requires the motion picture company or digital media company to retain records supporting its claim for a motion picture incentive for at least four years after the motion picture company or digital media company claims the incentive under this part; and
- (e) requires the motion picture company or digital media company to submit to audits for verification of the claimed motion picture incentive.

Amended by Chapter 282, 2021 General Session

63N-8-105 Annual report.

The office shall include the following information in the annual written report described in Section 63N-1a-306:

- (1) the office's success in attracting within-the-state production of television series, made-for-television movies, and motion pictures, including feature films and independent films;
- (2) the amount of incentive commitments made by the office under this part and the period of time over which the incentives will be paid; and
- (3) the economic impact on the state related to:
 - (a) dollars left in the state; and
 - (b) providing motion picture incentives under this part.

Amended by Chapter 282, 2021 General Session

Chapter 9 Utah Office of Outdoor Recreation

Part 1 General Provisions

63N-9-101 Title.

This chapter is known as the "Utah Office of Outdoor Recreation."

Renumbered and Amended by Chapter 283, 2015 General Session

63N-9-102 Definitions.

As used in this chapter:

- (1) "Accessible to the general public," in relation to the awarding of an infrastructure grant, means:
 - (a) the public may use the infrastructure in accordance with federal and state regulations; and
 - (b) no community or group retains exclusive rights to access the infrastructure.
- (2) "Advisory committee" means the Utah Outdoor Recreation Grant Advisory Committee created in Section 79-8-105.
- (3) "Director" means the director of the Utah Office of Outdoor Recreation.
- (4) "Executive director" means the executive director of GOED.

- (5) "Infrastructure grant" means an outdoor recreational infrastructure grant described in Section 63N-9-202.
- (6) "Outdoor recreation office" means the Utah Office of Outdoor Recreation created in Section 63N-9-104.
- (7)
 - (a) "Recreational infrastructure project" means an undertaking to build or improve the approved facilities and installations needed for the public to access and enjoy the state's outdoors.
 - (b) "Recreational infrastructure project" may include the:
 - (i) establishment, construction, or renovation of a trail, trail infrastructure, or trail facilities;
 - (ii) construction of a project for water-related outdoor recreational activities;
 - (iii) development of a project for wildlife watching opportunities, including bird watching;
 - (iv) development of a project that provides winter recreation amenities;
 - (v) construction or improvement of a community park that has amenities for outdoor recreation; and
 - (vi) construction or improvement of a naturalistic and accessible playground.
- (8)
 - (a) "Underserved or underprivileged community" means a group of people, including a municipality, county, or American Indian tribe, that is economically disadvantaged.
 - (b) "Underserved or underprivileged community" includes an economically disadvantaged community where in relation to awarding an infrastructure grant, the people of the community have limited access to or have demonstrated a low level of use of recreational infrastructure.

Amended by Chapter 280, 2021 General Session

63N-9-103 Policy.

It is the declared policy of the state that outdoor recreation is vital to a diverse economy and a healthy community.

Renumbered and Amended by Chapter 283, 2015 General Session

63N-9-104 Creation of outdoor recreation office and appointment of director -- Responsibilities of outdoor recreation office.

- (1) There is created within the office the Utah Office of Outdoor Recreation.
- (2)
 - (a) The executive director shall appoint a director of the outdoor recreation office.
 - (b) The director may appoint staff.
- (3) The outdoor recreation office shall:
 - (a) coordinate outdoor recreation policy, management, and promotion:
 - (i) among state and federal agencies and local government entities in the state;
 - (ii) with the Public Lands Policy Coordinating Office created in Section 63L-11-201, if public land is involved; and
 - (iii) on a quarterly basis, with the executive director and the executive director of the Department of Natural Resources;
 - (b) promote economic development in the state by:
 - (i) coordinating with outdoor recreation stakeholders;
 - (ii) improving recreational opportunities; and
 - (iii) recruiting outdoor recreation business;

- (c) promote all forms of outdoor recreation, including vehicular and non-vehicular outdoor recreation;
 - (d) recommend to the governor and Legislature policies and initiatives to enhance recreational amenities and experiences in the state and help implement those policies and initiatives;
 - (e) in performing the outdoor recreation office's duties, seek to ensure safe and adequate access to outdoor recreation for all user groups and for all forms of recreation;
 - (f) develop data regarding the impacts of outdoor recreation in the state; and
 - (g) promote the health and social benefits of outdoor recreation, especially to young people.
- (4) By following the procedures and requirements of Title 63J, Chapter 5, Federal Funds Procedures Act, the outdoor recreation office may:
- (a) seek federal grants or loans;
 - (b) seek to participate in federal programs; and
 - (c) in accordance with applicable federal program guidelines, administer federally funded outdoor recreation programs.
- (5) For purposes of administering this part, the outdoor recreation office may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Amended by Chapter 282, 2021 General Session

Amended by Chapter 382, 2021 General Session

63N-9-105 Duties of director.

The director shall:

- (1) ensure that the responsibilities of the outdoor recreation office outlined in this chapter are fulfilled; and
- (2) organize and provide administrative oversight to the outdoor recreation office staff.

Amended by Chapter 88, 2016 General Session

63N-9-106 Annual report.

The executive director shall include in the annual written report described in Section 63N-1a-306 a report from the director on the activities of the outdoor recreation office, including a description and the amount of any awarded infrastructure grants.

Amended by Chapter 280, 2021 General Session

Amended by Chapter 282, 2021 General Session

Part 2

Outdoor Recreational Infrastructure Grant Program

63N-9-201 Title.

This part is known as the "Outdoor Recreational Infrastructure Grant Program."

Enacted by Chapter 88, 2016 General Session

63N-9-202 Creation and purpose of infrastructure grant program.

- (1) There is created the Outdoor Recreational Infrastructure Grant Program administered by the outdoor recreation office.
- (2) The outdoor recreation office may seek to accomplish the following objectives in administering the infrastructure grant program:
 - (a) build, maintain, and promote recreational infrastructure to provide greater access to low-cost outdoor recreation for the state's citizens;
 - (b) encourage residents and nonresidents of the state to take advantage of the beauty of Utah's outdoors;
 - (c) encourage individuals and businesses to relocate to the state;
 - (d) promote outdoor exercise; and
 - (e) provide outdoor recreational opportunities to an underserved or underprivileged community in the state.
- (3) The advisory committee shall advise and make recommendations to the outdoor recreation office regarding infrastructure grants.

Amended by Chapter 280, 2021 General Session

63N-9-203 Rulemaking and requirements for awarding an infrastructure grant.

- (1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the outdoor recreation office shall make rules establishing the eligibility and reporting criteria for an entity to receive an infrastructure grant, including:
 - (a) the form and process of submitting an application to the outdoor recreation office for an infrastructure grant;
 - (b) which entities are eligible to apply for an infrastructure grant;
 - (c) specific categories of recreational infrastructure projects that are eligible for an infrastructure grant;
 - (d) the method and formula for determining grant amounts; and
 - (e) the reporting requirements of grant recipients.
- (2) In determining the award of an infrastructure grant, the outdoor recreation office may prioritize a recreational infrastructure project that will serve an underprivileged or underserved community.
- (3) An infrastructure grant may only be awarded by the executive director after consultation with the director and the GO Utah board.
- (4) The following entities may not receive an infrastructure grant under this part:
 - (a) a federal government entity;
 - (b) a state agency; and
 - (c) a for-profit entity.
- (5) An infrastructure grant may only be awarded under this part:
 - (a) for a recreational infrastructure project that is accessible to the general public; and
 - (b) subject to Subsections (6) and (7), if the grant recipient agrees to provide matching funds having a value equal to or greater than the amount of the infrastructure grant.
- (6) Up to 50% of the grant recipient match described in Subsection (5)(b) may be provided through an in-kind contribution by the grant recipient, if:
 - (a) approved by the executive director after consultation with the director and the GO Utah board; and
 - (b) the in-kind donation does not include real property.
- (7) An infrastructure grant may not be awarded under this part if the grant, or the grant recipient match described in Subsection (5)(b), will be used for the purchase of real property or for the purchase or transfer of a conservation easement.

Amended by Chapter 282, 2021 General Session

Chapter 10

Pete Suazo Utah Athletic Commission Act

Part 1

General Provisions

63N-10-101 Title.

This chapter is known as the "Pete Suazo Utah Athletic Commission Act."

Renumbered and Amended by Chapter 283, 2015 General Session

63N-10-102 Definitions.

As used in this chapter:

- (1) "Bodily injury" has the same meaning as defined in Section 76-1-601.
- (2) "Boxing" means the sport of attack and defense using the fist, which is covered by an approved boxing glove.
- (3)
 - (a) "Club fighting" means any contest of unarmed combat, whether admission is charged or not, where:
 - (i) the rules of the contest are not approved by the commission;
 - (ii) a licensed physician, osteopath, or physician assistant approved by the commission is not in attendance;
 - (iii) a correct HIV negative test regarding each contestant has not been provided to the commission;
 - (iv) the contest is not conducted in accordance with commission rules; or
 - (v) the contestants are not matched by the weight standards established in accordance with Section 63N-10-316.
 - (b) "Club fighting" does not include sparring if:
 - (i) it is conducted for training purposes;
 - (ii) no tickets are sold to spectators;
 - (iii) no concessions are available for spectators;
 - (iv) protective clothing, including protective headgear, a mouthguard, and a protective cup, is worn; and
 - (v) for boxing, 16 ounce boxing gloves are worn.
- (4) "Commission" means the Pete Suazo Utah Athletic Commission created by this chapter.
- (5) "Contest" means a live match, performance, or exhibition involving two or more persons engaged in unarmed combat.
- (6) "Contestant" means an individual who participates in a contest.
- (7) "Designated commission member" means a member of the commission designated to:
 - (a) attend and supervise a particular contest; and
 - (b) act on the behalf of the commission at a contest venue.
- (8) "Director" means the director appointed by the commission.

- (9) "Elimination unarmed combat contest" means a contest where:
 - (a) a number of contestants participate in a tournament;
 - (b) the duration is not more than 48 hours; and
 - (c) the loser of each contest is eliminated from further competition.
- (10) "Exhibition" means an engagement in which the participants show or display their skills without necessarily striving to win.
- (11) "Judge" means an individual qualified by training or experience to:
 - (a) rate the performance of contestants;
 - (b) score a contest; and
 - (c) determine with other judges whether there is a winner of the contest or whether the contestants performed equally, resulting in a draw.
- (12) "Licensee" means an individual licensed by the commission to act as a:
 - (a) contestant;
 - (b) judge;
 - (c) manager;
 - (d) promoter;
 - (e) referee;
 - (f) second; or
 - (g) other official established by the commission by rule.
- (13) "Manager" means an individual who represents a contestant for the purpose of:
 - (a) obtaining a contest for a contestant;
 - (b) negotiating terms and conditions of the contract under which the contestant will engage in a contest; or
 - (c) arranging for a second for the contestant at a contest.
- (14) "Promoter" means a person who engages in producing or staging contests and promotions.
- (15) "Promotion" means a single contest or a combination of contests that:
 - (a) occur during the same time and at the same location; and
 - (b) is produced or staged by a promoter.
- (16) "Purse" means any money, prize, remuneration, or any other valuable consideration a contestant receives or may receive for participation in a contest.
- (17) "Referee" means an individual qualified by training or experience to act as the official attending a contest at the point of contact between contestants for the purpose of:
 - (a) enforcing the rules relating to the contest;
 - (b) stopping the contest in the event the health, safety, and welfare of a contestant or any other person in attendance at the contest is in jeopardy; and
 - (c) acting as a judge if so designated by the commission.
- (18) "Round" means one of a number of individual time periods that, taken together, constitute a contest during which contestants are engaged in a form of unarmed combat.
- (19) "Second" means an individual who attends a contestant at the site of the contest before, during, and after the contest in accordance with contest rules.
- (20) "Serious bodily injury" has the same meaning as defined in Section 76-1-601.
- (21) "Total gross receipts" means the amount of the face value of all tickets sold to a particular contest plus any sums received as consideration for holding the contest at a particular location.
- (22) "Ultimate fighting" means a live contest, whether or not an admission fee is charged, in which:
 - (a) contest rules permit contestants to use a combination of boxing, kicking, wrestling, hitting, punching, or other combative contact techniques;
 - (b) contest rules incorporate a formalized system of combative techniques against which a contestant's performance is judged to determine the prevailing contestant;

- (c) contest rules divide nonchampionship contests into three equal and specified rounds of no more than five minutes per round with a rest period of one minute between each round;
 - (d) contest rules divide championship contests into five equal and specified rounds of no more than five minutes per round with a rest period of one minute between each round; and
 - (e) contest rules prohibit contestants from:
 - (i) using anything that is not part of the human body, except for boxing gloves, to intentionally inflict serious bodily injury upon an opponent through direct contact or the expulsion of a projectile;
 - (ii) striking a person who demonstrates an inability to protect himself from the advances of an opponent;
 - (iii) biting; or
 - (iv) direct, intentional, and forceful strikes to the eyes, groin area, Adam's apple area of the neck, and the rear area of the head and neck.
- (23)
- (a) "Unarmed combat" means boxing or any other form of competition in which a blow is usually struck which may reasonably be expected to inflict bodily injury.
 - (b) "Unarmed combat" does not include a competition or exhibition between participants in which the participants engage in simulated combat for entertainment purposes.
- (24) "Unlawful conduct" means organizing, promoting, or participating in a contest which involves contestants that are not licensed under this chapter.
- (25) "Unprofessional conduct" means:
- (a) entering into a contract for a contest in bad faith;
 - (b) participating in any sham or fake contest;
 - (c) participating in a contest pursuant to a collusive understanding or agreement in which the contestant competes in or terminates the contest in a manner that is not based upon honest competition or the honest exhibition of the skill of the contestant;
 - (d) engaging in an act or conduct that is detrimental to a contest, including any foul or unsportsmanlike conduct in connection with a contest;
 - (e) failing to comply with any limitation, restriction, or condition placed on a license;
 - (f) striking of a downed opponent by a contestant while the contestant remains on the contestant's feet, unless the designated commission member or director has exempted the contest and each contestant from the prohibition on striking a downed opponent before the start of the contest;
 - (g) after entering the ring or contest area, penetrating an area within four feet of an opponent by a contestant, manager, or second before the commencement of the contest; or
 - (h) as further defined by rules made by the commission under Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (26) "White-collar contest" means a contest conducted at a training facility where no alcohol is served in which:
- (a) for boxing:
 - (i) neither contestant is or has been a licensed contestant in any state or an amateur registered with USA Boxing, Inc.;
 - (ii) no cash prize, or other prize valued at greater than \$35, is awarded;
 - (iii) protective clothing, including protective headgear, a mouthguard, a protective cup, and for a female contestant a chestguard, is worn;
 - (iv) 16 ounce boxing gloves are worn;
 - (v) the contest is no longer than three rounds of no longer than three minutes each;
 - (vi) no winner or loser is declared or recorded; and

- (vii) the contestants do not compete in a cage; and
- (b) for ultimate fighting:
 - (i) neither contestant is or has been a licensed contestant in any state or an amateur registered with USA Boxing, Inc.;
 - (ii) no cash prize, or other prize valued at greater than \$35, is awarded;
 - (iii) protective clothing, including a protective mouthguard and a protective cup, is worn;
 - (iv) downward elbow strikes are not allowed;
 - (v) a contestant is not allowed to stand and strike a downed opponent;
 - (vi) a closed-hand blow to the head is not allowed while either contestant is on the ground;
 - (vii) the contest is no longer than three rounds of no longer than three minutes each; and
 - (viii) no winner or loser is declared or recorded.

Amended by Chapter 349, 2019 General Session

Part 2

Pete Suazo Utah Athletic Commission

63N-10-201 Commission -- Creation -- Appointments -- Terms -- Expenses -- Quorum.

- (1) There is created within the office the Pete Suazo Utah Athletic Commission consisting of five members.
- (2)
 - (a) The governor shall appoint three commission members.
 - (b) The president of the Senate and the speaker of the House of Representatives shall each appoint one commission member.
 - (c) The commission members may not be licensees under this chapter.
- (3)
 - (a) Except as required by Subsection (3)(b), as terms of current members expire, the governor, president, or speaker, respectively, shall appoint each new member or reappointed member to a four-year term.
 - (b) The governor shall, at the time of appointment or reappointment, adjust the length of the governor's appointees' terms to ensure that the terms of members are staggered so that approximately half of the commission is appointed every two years.
 - (c) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.
 - (d) A commission member may be removed for any reason and replaced in accordance with this section by:
 - (i) the governor, for a commission member appointed by the governor;
 - (ii) the president of the Senate, for a commission member appointed by the president of the Senate; or
 - (iii) the speaker of the House of Representatives, for a commission member appointed by the speaker of the House of Representatives.
- (4)
 - (a) A majority of the commission members constitutes a quorum.
 - (b) A majority of a quorum is sufficient authority for the commission to act.
- (5) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

- (a) Section 63A-3-106;
 - (b) Section 63A-3-107; and
 - (c) rules made by the Division of Finance under Sections 63A-3-106 and 63A-3-107.
- (6) The commission shall annually designate one of its members to serve as chair for a one-year period.

Amended by Chapter 466, 2018 General Session

63N-10-202 Commission powers and duties.

- (1) The commission shall:
- (a) purchase and use a seal;
 - (b) adopt rules for the administration of this chapter in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
 - (c) prepare all forms of contracts between sponsors, licensees, promoters, and contestants; and
 - (d) hold hearings relating to matters under its jurisdiction, including violations of this chapter or rules made under this chapter.
- (2) The commission may subpoena witnesses, take evidence, and require the production of books, papers, documents, records, contracts, recordings, tapes, correspondence, or other information relevant to an investigation if the commission or its designee considers it necessary.

Renumbered and Amended by Chapter 283, 2015 General Session

63N-10-203 Commission director.

- (1) The commission shall employ a director, who may not be a member of the commission, to conduct the commission's business.
- (2) The director serves at the pleasure of the commission.

Renumbered and Amended by Chapter 283, 2015 General Session

63N-10-204 Inspectors.

- (1) The commission may appoint one or more official representatives to be designated as inspectors, who shall serve at the pleasure of the commission.
- (2) Each inspector must receive from the commission a card authorizing that inspector to act as an inspector for the commission.
- (3) An inspector may not promote or sponsor any contest.
- (4) Each inspector may receive a fee approved by the commission for the performance of duties under this chapter.

Renumbered and Amended by Chapter 283, 2015 General Session

63N-10-205 Affiliation with other commissions.

The commission may affiliate with any other state, tribal, or national boxing commission or athletic authority.

Renumbered and Amended by Chapter 283, 2015 General Session

Part 3 Licensing

63N-10-301 Licensing.

- (1) A license is required for a person to act as or to represent that the person is:
 - (a) a promoter;
 - (b) a manager;
 - (c) a contestant;
 - (d) a second;
 - (e) a referee;
 - (f) a judge; or
 - (g) another official established by the commission by rule.
- (2) The commission shall issue to a person who qualifies under this chapter a license in the classifications of:
 - (a) promoter;
 - (b) manager;
 - (c) contestant;
 - (d) second;
 - (e) referee;
 - (f) judge; or
 - (g) another official who meets the requirements established by rule under Subsection (1)(g).
- (3) All money collected under this section and Sections 63N-10-304, 63N-10-307, 63N-10-310, and 63N-10-313 shall be retained as dedicated credits to pay for commission expenses.
- (4) Each applicant for licensure as a promoter shall:
 - (a) submit an application in a form prescribed by the commission;
 - (b) pay the fee determined by the commission under Section 63J-1-504;
 - (c) provide to the commission evidence of financial responsibility, which shall include financial statements and other information that the commission may reasonably require to determine that the applicant or licensee is able to competently perform as and meet the obligations of a promoter in this state;
 - (d) make assurances that the applicant:
 - (i) is not engaging in illegal gambling with respect to sporting events or gambling with respect to the promotions the applicant is promoting;
 - (ii) has not been found in a criminal or civil proceeding to have engaged in or attempted to engage in any fraud or misrepresentation in connection with a contest or any other sporting event; and
 - (iii) has not been found in a criminal or civil proceeding to have violated or attempted to violate any law with respect to a contest in any jurisdiction or any law, rule, or order relating to the regulation of contests in this state or any other jurisdiction;
 - (e) acknowledge in writing to the commission receipt, understanding, and intent to comply with this chapter and the rules made under this chapter; and
 - (f) if requested by the commission or the director, meet with the commission or the director to examine the applicant's qualifications for licensure.
- (5) Each applicant for licensure as a contestant shall:
 - (a) be not less than 18 years of age at the time the application is submitted to the commission;
 - (b) submit an application in a form prescribed by the commission;
 - (c) pay the fee established by the commission under Section 63J-1-504;

- (d) provide a certificate of physical examination, dated not more than 60 days prior to the date of application for licensure, in a form provided by the commission, completed by a licensed physician and surgeon or physician assistant certifying that the applicant is free from any physical or mental condition that indicates the applicant should not engage in activity as a contestant;
 - (e) make assurances that the applicant:
 - (i) is not engaging in illegal gambling with respect to sporting events or gambling with respect to a contest in which the applicant will participate;
 - (ii) has not been found in a criminal or civil proceeding to have engaged in or attempted to have engaged in any fraud or misrepresentation in connection with a contest or any other sporting event; and
 - (iii) has not been found in a criminal or civil proceeding to have violated or attempted to violate any law with respect to contests in any jurisdiction or any law, rule, or order relating to the regulation of contests in this state or any other jurisdiction;
 - (f) acknowledge in writing to the commission receipt, understanding, and intent to comply with this chapter and the rules made under this chapter; and
 - (g) if requested by the commission or the director, meet with the commission or the director to examine the applicant's qualifications for licensure.
- (6) Each applicant for licensure as a manager or second shall:
- (a) submit an application in a form prescribed by the commission;
 - (b) pay a fee determined by the commission under Section 63J-1-504;
 - (c) make assurances that the applicant:
 - (i) is not engaging in illegal gambling with respect to sporting events or gambling with respect to a contest in which the applicant is participating;
 - (ii) has not been found in a criminal or civil proceeding to have engaged in or attempted to have engaged in any fraud or misrepresentation in connection with a contest or any other sporting event; and
 - (iii) has not been found in a criminal or civil proceeding to have violated or attempted to violate any law with respect to a contest in any jurisdiction or any law, rule, or order relating to the regulation of contests in this state or any other jurisdiction;
 - (d) acknowledge in writing to the commission receipt, understanding, and intent to comply with this chapter and the rules made under this chapter; and
 - (e) if requested by the commission or director, meet with the commission or the director to examine the applicant's qualifications for licensure.
- (7) Each applicant for licensure as a referee or judge shall:
- (a) submit an application in a form prescribed by the commission;
 - (b) pay a fee determined by the commission under Section 63J-1-504;
 - (c) make assurances that the applicant:
 - (i) is not engaging in illegal gambling with respect to sporting events or gambling with respect to a contest in which the applicant is participating;
 - (ii) has not been found in a criminal or civil proceeding to have engaged in or attempted to have engaged in any fraud or misrepresentation in connection with a contest or any other sporting event; and
 - (iii) has not been found in a criminal or civil proceeding to have violated or attempted to violate any law with respect to contests in any jurisdiction or any law, rule, or order relating to the regulation of contests in this state or any other jurisdiction;
 - (d) acknowledge in writing to the commission receipt, understanding, and intent to comply with this chapter and the rules made under this chapter;

- (e) provide evidence satisfactory to the commission that the applicant is qualified by training and experience to competently act as a referee or judge in a contest; and
 - (f) if requested by the commission or the director, meet with the commission or the director to examine the applicant's qualifications for licensure.
- (8) The commission may make rules concerning the requirements for a license under this chapter, that deny a license to an applicant for the violation of a crime that, in the commission's determination, would have a material affect on the integrity of a contest held under this chapter.
- (9)
- (a) A licensee serves at the pleasure, and under the direction, of the commission while participating in any way at a contest.
 - (b) A licensee's license may be suspended, or a fine imposed, if the licensee does not follow the commission's direction at an event or contest.

Amended by Chapter 349, 2019 General Session

63N-10-302 Term of license -- Expiration -- Renewal.

- (1) The commission shall issue each license under this chapter in accordance with a renewal cycle established by rule.
- (2) At the time of renewal, the licensee shall show satisfactory evidence of compliance with renewal requirements established by rule by the commission.
- (3) Each license automatically expires on the expiration date shown on the license unless the licensee renews it in accordance with the rules established by the commission.

Renumbered and Amended by Chapter 283, 2015 General Session

63N-10-303 Grounds for denial of license -- Disciplinary proceedings -- Reinstatement.

- (1) The commission shall refuse to issue a license to an applicant and shall refuse to renew or shall revoke, suspend, restrict, place on probation, or otherwise act upon the license of a licensee who does not meet the qualifications for licensure under this chapter.
- (2) The commission may refuse to issue a license to an applicant and may refuse to renew or may revoke, suspend, restrict, place on probation, issue a public or private reprimand to, or otherwise act upon the license of any licensee if:
 - (a) the applicant or licensee has engaged in unlawful or unprofessional conduct, as defined by statute or rule under this chapter;
 - (b) the applicant or licensee has been determined to be mentally incompetent for any reason by a court of competent jurisdiction; or
 - (c) the applicant or licensee is unable to practice the occupation or profession with reasonable skill and safety because of illness, drunkenness, excessive use of drugs, narcotics, chemicals, or any other type of material, or as a result of any other mental or physical condition, when the licensee's condition demonstrates a threat or potential threat to the public health, safety, or welfare, as determined by a ringside physician or the commission.
- (3) Any licensee whose license under this chapter has been suspended, revoked, or restricted may apply for reinstatement of the license at reasonable intervals and upon compliance with any conditions imposed upon the licensee by statute, rule, or terms of the license suspension, revocation, or restriction.
- (4) The commission may issue cease and desist orders:
 - (a) to a licensee or applicant who may be disciplined under Subsection (1) or (2); and
 - (b) to any person who otherwise violates this chapter or any rules adopted under this chapter.

- (5)
 - (a) The commission may impose an administrative fine for acts of unprofessional or unlawful conduct under this chapter.
 - (b) An administrative fine under this Subsection (5) may not exceed \$2,500 for each separate act of unprofessional or unlawful conduct.
 - (c) The commission shall comply with Title 63G, Chapter 4, Administrative Procedures Act, in any action to impose an administrative fine under this chapter.
 - (d) The imposition of a fine under this Subsection (5) does not affect any other action the commission or department may take concerning a license issued under this chapter.
- (6)
 - (a) The commission may not take disciplinary action against any person for unlawful or unprofessional conduct under this chapter, unless the commission initiates an adjudicative proceeding regarding the conduct within four years after the conduct is reported to the commission, except under Subsection (6)(b).
 - (b) The commission may not take disciplinary action against any person for unlawful or unprofessional conduct more than 10 years after the occurrence of the conduct, unless the proceeding is in response to a civil or criminal judgment or settlement and the proceeding is initiated within one year following the judgment or settlement.
- (7)
 - (a) Notwithstanding Title 63G, Chapter 4, Administrative Procedures Act, the following may immediately suspend the license of a licensee at such time and for such period that the following believes is necessary to protect the health, safety, and welfare of the licensee, another licensee, or the public:
 - (i) the commission;
 - (ii) a designated commission member; or
 - (iii) if a designated commission member is not present, the director.
 - (b) The commission shall establish by rule appropriate procedures to invoke the suspension and to provide a suspended licensee a right to a hearing before the commission with respect to the suspension within a reasonable time after the suspension.

Renumbered and Amended by Chapter 283, 2015 General Session

63N-10-304 Additional fees for license of promoter -- Dedicated credits -- Promotion of contests -- Annual exemption of showcase event.

- (1) In addition to the payment of any other fees and money due under this chapter, every promoter shall pay a license fee determined by the commission and established in rule.
- (2) License fees collected under this Subsection (2) from professional boxing contests or exhibitions shall be retained by the commission as a dedicated credit to be used by the commission to award grants to organizations that promote amateur boxing in the state and cover commission expenses.
- (3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall adopt rules:
 - (a) governing the manner in which applications for grants under Subsection (2) may be submitted to the commission; and
 - (b) establishing standards for awarding grants under Subsection (2) to organizations which promote amateur boxing in the state.
- (4)

- (a) For the purpose of creating a greater interest in contests in the state, the commission may exempt from the payment of license fees under this section one contest or exhibition in each calendar year, intended as a showcase event.
- (b) The commission shall select the contest or exhibition to be exempted based on factors which include:
 - (i) attraction of the optimum number of spectators;
 - (ii) costs of promoting and producing the contest or exhibition;
 - (iii) ticket pricing;
 - (iv) committed promotions and advertising of the contest or exhibition;
 - (v) rankings and quality of the contestants; and
 - (vi) committed television and other media coverage of the contest or exhibition.

Renumbered and Amended by Chapter 283, 2015 General Session

63N-10-305 Jurisdiction of commission.

- (1)
 - (a) The commission has the sole authority concerning direction, management, control, and jurisdiction over all contests or exhibitions of unarmed combat to be conducted, held, or given within this state.
 - (b) A contest or exhibition may not be conducted, held, or given within this state except in accordance with this chapter.
- (2) Any contest involving a form of unarmed self-defense must be conducted pursuant to rules for that form which are approved by the commission before the contest is conducted, held, or given.
- (3)
 - (a) An area not less than six feet from the perimeter of the ring shall be reserved for the use of:
 - (i) the designated commission member;
 - (ii) other commission members in attendance;
 - (iii) the director;
 - (iv) commission employees;
 - (v) officials;
 - (vi) licensees participating or assisting in the contest; and
 - (vii) others granted credentials by the commission.
 - (b) The promoter shall provide security at the direction of the commission or designated commission member to secure the area described in Subsection (3)(a).
- (4) The area described in Subsection (3), the area in the dressing rooms, and other areas considered necessary by the designated commission member for the safety and welfare of a licensee and the public shall be reserved for the use of:
 - (a) the designated commission member;
 - (b) other commission members in attendance;
 - (c) the director;
 - (d) commission employees;
 - (e) officials;
 - (f) licensees participating or assisting in the contest; and
 - (g) others granted credentials by the commission.
- (5) The promoter shall provide security at the direction of the commission or designated commission member to secure the areas described in Subsections (3) and (4).
- (6)

- (a) The designated commission member may direct the removal from the contest venue and premises, of any individual whose actions:
 - (i) are disruptive to the safe conduct of the contest; or
 - (ii) pose a danger to the safety and welfare of the licensees, the commission, or the public, as determined by the designated commission member.
- (b) The promoter shall provide security at the direction of the commission or designated commission member to effectuate a removal under Subsection (6)(a).

Renumbered and Amended by Chapter 283, 2015 General Session

63N-10-306 Club fighting prohibited.

- (1) Club fighting is prohibited.
- (2) Any person who publicizes, promotes, conducts, or engages in a club fighting match is:
 - (a) guilty of a class A misdemeanor as provided in Section 76-9-705; and
 - (b) subject to license revocation under this chapter.

Renumbered and Amended by Chapter 283, 2015 General Session

63N-10-307 Approval to hold contest or promotion -- Bond required.

- (1) An application to hold a contest or multiple contests as part of a single promotion shall be made by a licensed promoter to the commission on forms provided by the commission.
- (2) The application shall be accompanied by a contest fee determined by the commission under Section 63J-1-505.
- (3)
 - (a) The commission may approve or deny approval to hold a contest or promotion permitted under this chapter.
 - (b) Provisional approval under Subsection (3)(a) shall be granted upon a determination by the commission that:
 - (i) the promoter of the contest or promotion is properly licensed;
 - (ii) a bond meeting the requirements of Subsection (6) has been posted by the promoter of the contest or promotion; and
 - (iii) the contest or promotion will be held in accordance with this chapter and rules made under this chapter.
- (4)
 - (a) Final approval to hold a contest or promotion may not be granted unless the commission receives, not less than seven days before the day of the contest with 10 or more rounds:
 - (i) proof of a negative HIV test performed not more than 180 days before the day of the contest for each contestant;
 - (ii) a copy of each contestant's federal identification card;
 - (iii) a copy of a signed contract between each contestant and the promoter for the contest;
 - (iv) a statement specifying the maximum number of rounds of the contest;
 - (v) a statement specifying the site, date, and time of weigh-in; and
 - (vi) the name of the physician selected from among a list of registered and commission-approved ringside physicians who shall act as ringside physician for the contest.
 - (b) Notwithstanding Subsection (4)(a), the commission may approve a contest or promotion if the requirements under Subsection (4)(a) are not met because of unforeseen circumstances beyond the promoter's control.

- (5) Final approval for a contest under 10 rounds in duration may be granted as determined by the commission after receiving the materials identified in Subsection (4) at a time determined by the commission.
- (6) An applicant shall post a surety bond or cashier's check with the commission in the greater of \$10,000 or the amount of the purse, providing for forfeiture and disbursement of the proceeds if the applicant fails to comply with:
 - (a) the requirements of this chapter; or
 - (b) rules made under this chapter relating to the promotion or conduct of the contest or promotion.

Renumbered and Amended by Chapter 283, 2015 General Session

63N-10-308 Rules for the conduct of contests.

- (1) The commission shall adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for the conduct of contests in the state.
- (2) The rules shall include:
 - (a) authority for:
 - (i) stopping contests; and
 - (ii) impounding purses with respect to contests when there is a question with respect to the contest, contestants, or any other licensee associated with the contest; and
 - (b) reasonable and necessary provisions to ensure that all obligations of a promoter with respect to any promotion or contest are paid in accordance with agreements made by the promoter.
- (3)
 - (a) The commission may, in its discretion, exempt a contest and each contestant from the definition of unprofessional conduct found in Subsection 63N-10-102(25)(f) after:
 - (i) a promoter requests the exemption; and
 - (ii) the commission considers relevant factors, including:
 - (A) the experience of the contestants;
 - (B) the win and loss records of each contestant;
 - (C) each contestant's level of training; and
 - (D) any other evidence relevant to the contestants' professionalism and the ability to safely conduct the contest.
 - (b) The commission's hearing of a request for an exemption under this Subsection (3) is an informal adjudicative proceeding under Section 63G-4-202.
 - (c) The commission's decision to grant or deny a request for an exemption under this Subsection (3) is not subject to agency review under Section 63G-4-301.

Renumbered and Amended by Chapter 283, 2015 General Session

63N-10-309 Medical examinations and drug tests.

- (1) The commission shall adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for medical examinations and drug testing of contestants, including provisions under which contestants shall:
 - (a) produce evidence based upon competent laboratory examination that they are HIV negative as a condition of participating as a contestant in any contest;
 - (b) be subject to random drug testing before or after participation in a contest, and sanctions, including barring participation in a contest or withholding a percentage of any purse, that shall be placed against a contestant testing positive for alcohol or any other drug that in the opinion

of the commission is inconsistent with the safe and competent participation of that contestant in a contest;

- (c) be subject to a medical examination by the ringside physician not more than 30 hours before the contest to identify any physical ailment or communicable disease that, in the opinion of the commission or designated commission member, are inconsistent with the safe and competent participation of that contestant in the contest; and
 - (d) be subject to medical testing for communicable diseases as considered necessary by the commission to protect the health, safety, and welfare of the licensees and the public.
- (2)
- (a) Medical information concerning a contestant shall be provided by the contestant or medical professional or laboratory.
 - (b) A promoter or manager may not provide to or receive from the commission medical information concerning a contestant.

Renumbered and Amended by Chapter 283, 2015 General Session

63N-10-310 Contests.

- (1) Except as provided in Section 63N-10-317, a licensee may not participate in an unarmed combat contest within a predetermined time after another unarmed combat contest, as prescribed in rules made by the commission.
- (2) During the period of time beginning 60 minutes before the beginning of a contest, the promoter shall demonstrate the promoter's compliance with the commission's security requirements to all commission members present at the contest.
- (3) The commission shall establish fees in accordance with Section 63J-1-504 to be paid by a promoter for the conduct of each contest or event composed of multiple contests conducted under this chapter.

Renumbered and Amended by Chapter 283, 2015 General Session

63N-10-311 Ringside physician.

- (1) The commission shall maintain a list of ringside physicians who hold a Doctor of Medicine (MD) degree and are registered with the commission as approved to act as a ringside physician and meet the requirements of Subsection (2).
- (2)
 - (a) The commission shall appoint a registered ringside physician to perform the duties of a ringside physician at each contest held under this chapter.
 - (b) The promoter of a contest shall pay a fee determined by the commission by rule to the commission for a ringside physician.
- (3) An applicant for registration as a ringside physician shall:
 - (a) submit an application for registration;
 - (b) provide the commission with evidence of the applicant's licensure to practice medicine in the state; and
 - (c) satisfy minimum qualifications established by the department by rule.
- (4) A ringside physician at attendance at a contest:
 - (a) may stop the contest at any point if the ringside physician determines that a contestant's physical condition renders the contestant unable to safely continue the contest; and
 - (b) works under the direction of the commission.

Renumbered and Amended by Chapter 283, 2015 General Session

63N-10-312 Contracts.

Before a contest is held, a copy of the signed contract or agreement between the promoter of the contest and each contestant shall be filed with the commission. Approval of the contract's terms and conditions shall be obtained from the commission as a condition precedent to the contest.

Renumbered and Amended by Chapter 283, 2015 General Session

63N-10-313 Withholding of purse.

- (1) The commission, the director, or any other agent authorized by the commission may order a promoter to withhold any part of a purse or other money belonging or payable to any contestant, manager, or second if, in the judgment of the commission, director, or other agent:
 - (a) the contestant is not competing honestly or to the best of the contestant's skill and ability or the contestant otherwise violates any rules adopted by the commission or any of the provisions of this chapter; or
 - (b) the manager or second violates any rules adopted by the commission or any of the provisions of this chapter.
- (2) This section does not apply to any contestant in a wrestling exhibition who appears not to be competing honestly or to the best of the contestant's skill and ability.
- (3) Upon the withholding of any part of a purse or other money pursuant to this section, the commission shall immediately schedule a hearing on the matter, provide adequate notice to all interested parties, and dispose of the matter as promptly as possible.
- (4) If it is determined that a contestant, manager, or second is not entitled to any part of that person's share of the purse or other money, the promoter shall pay the money over to the commission.

Renumbered and Amended by Chapter 283, 2015 General Session

63N-10-314 Penalty for unlawful conduct.

A person who engages in any act of unlawful conduct, as defined in Section 63N-10-102, is guilty of a class A misdemeanor.

Renumbered and Amended by Chapter 283, 2015 General Session

63N-10-315 Exemptions.

This chapter does not apply to:

- (1) any amateur contest or exhibition of unarmed combat conducted by or participated in exclusively by:
 - (a) a school accredited by the Utah Board of Education;
 - (b) a college or university accredited by the United States Department of Education; or
 - (c) any association or organization of a school, college, or university described in Subsections (1) (a) and (b), when each participant in the contests or exhibitions is a bona fide student in the school, college, or university;
- (2) any contest or exhibition of unarmed combat conducted in accordance with the standards and regulations of USA Boxing, Inc.; or
- (3) a white-collar contest.

Renumbered and Amended by Chapter 283, 2015 General Session

63N-10-316 Contest weights and classes -- Matching contestants.

- (1) The commission shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing boxing contest weights and classes consistent with those adopted by the Association of Boxing Commissions.
- (2) The commission shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing contest weights and classes for unarmed combat that is not boxing.
- (3)
 - (a) As to any unarmed combat contest, a contestant may not fight another contestant who is outside of the contestant's weight classification.
 - (b) Notwithstanding Subsection (3)(a), the commission may permit a contestant to fight another contestant who is outside of the contestant's weight classification.
- (4) Except as provided in Subsection (3)(b), as to any unarmed combat contest:
 - (a) a contestant who has contracted to participate in a given weight class may not be permitted to compete if the contestant is not within that weight class at the weigh-in; and
 - (b) a contestant may have two hours to attempt to gain or lose not more than three pounds in order to be reweighed.
- (5)
 - (a) As to any unarmed combat contest, the commission may not allow a contest in which the contestants are not fairly matched.
 - (b) Factors in determining if contestants are fairly matched include:
 - (i) the win-loss record of the contestants;
 - (ii) the weight differential between the contestants;
 - (iii) the caliber of opponents for each contestant;
 - (iv) each contestant's number of fights; and
 - (v) previous suspensions or disciplinary actions of the contestants.

Renumbered and Amended by Chapter 283, 2015 General Session

63N-10-317 Elimination contests -- Conduct of contests -- Applicability of provisions -- Limitations on license -- Duration of contests -- Equipment -- Limitations on contests.

- (1) An elimination unarmed combat contest shall be conducted under the supervision and authority of the commission.
- (2) Except as otherwise provided in this section and except as otherwise provided by specific statute, the provisions of this chapter pertaining to boxing apply to an elimination unarmed combat contest.
- (3)
 - (a) All contests in an elimination unarmed combat contest shall be no more than three rounds in duration.
 - (b) A round of unarmed combat in an elimination unarmed combat contest shall:
 - (i) be no more than one minute in duration; or
 - (ii) be up to three minutes in duration if there is only a single round.
 - (c) A period of rest following a round shall be no more than one minute in duration.
- (4) A contestant:
 - (a) shall wear gloves approved by the commission; and

- (b) shall wear headgear approved by the commission, the designated commission member, or the director if a designated commission member is not present.
- (5) A contestant may participate in more than one contest, but may not participate in more than a total of seven rounds in the entire tournament.

Renumbered and Amended by Chapter 283, 2015 General Session

63N-10-318 Commission rulemaking.

The commission may make rules governing the conduct of a contest held under this chapter to protect the health and safety of licensees and members of the public.

Renumbered and Amended by Chapter 283, 2015 General Session

Chapter 13 Procurement Programs

Part 1 Procurement Assistance

63N-13-101 Title -- Projects to assist companies to secure new business with federal, state, and local governments.

- (1) This chapter is known as "Procurement Programs."
- (2) The Legislature recognizes that:
 - (a) many Utah companies provide products and services which are routinely procured by a myriad of governmental entities at all levels of government, but that attempting to understand and comply with the numerous certification, registration, proposal, and contract requirements associated with government procurement often raises significant barriers for those companies with no government contracting experience;
 - (b) the costs associated with obtaining a government contract for products or services often prevent most small businesses from working in the governmental procurement market;
 - (c) currently a majority of federal procurement opportunities are contracted to businesses located outside of the state;
 - (d) the office currently administers programs and initiatives that help create and grow companies in Utah and recruit companies to Utah through the use of state employees, public-private partnerships, and contractual services; and
 - (e) there exists a significant opportunity for Utah companies to secure new business with federal, state, and local governments.
- (3) The office, through its executive director:
 - (a) shall manage and direct the administration of state and federal programs and initiatives whose purpose is to procure federal, state, and local governmental contracts;
 - (b) may require program accountability measures; and
 - (c) may receive and distribute legislative appropriations and public and private grants for projects and programs that:
 - (i) are focused on growing Utah companies and positively impacting statewide revenues by helping these companies secure new business with federal, state, and local governments;

- (ii) provide guidance to Utah companies interested in obtaining new business with federal, state, and local governmental entities;
- (iii) would facilitate marketing, business development, and expansion opportunities for Utah companies in cooperation with the office's Procurement Technical Assistance Center Program and with public, nonprofit, or private sector partners such as local chambers of commerce, trade associations, or private contractors as determined by the office's director to successfully match Utah businesses with government procurement opportunities; and
- (iv) may include the following components:
 - (A) recruitment, individualized consultation, and an introduction to government contracting;
 - (B) specialized contractor training for companies located in Utah;
 - (C) a Utah contractor matching program for government requirements;
 - (D) experienced proposal and bid support; and
 - (E) specialized support services.
- (4)
 - (a) The office, through its executive director, shall make any distribution referred to in Subsection (3) on a semiannual basis.
 - (b) A recipient of money distributed under this section shall provide the office with a set of standard monthly reports, the content of which shall be determined by the office to include at least the following information:
 - (i) consultive meetings with Utah companies;
 - (ii) seminars or training meetings held;
 - (iii) government contracts awarded to Utah companies;
 - (iv) increased revenues generated by Utah companies from new government contracts;
 - (v) jobs created;
 - (vi) salary ranges of new jobs; and
 - (vii) the value of contracts generated.

Amended by Chapter 282, 2021 General Session

Part 3

Facilitating Public-private Partnerships Act

63N-13-301 Title.

This part is known as the "Facilitating Public-Private Partnerships Act."

Enacted by Chapter 446, 2020 General Session

63N-13-302 Definitions.

As used in this part:

- (1) "Facilitator" means a person engaged by the office to perform the functions and responsibilities described in Section 63N-13-304.
- (2) "Government entity" means:
 - (a) the state or any department, division, agency, or other instrumentality of the state; or
 - (b) a political subdivision of the state.
- (3) "Public-private partnership" means an arrangement or agreement between a government entity and one or more private persons to fund and provide for a public need through the

development or operation of a public project in which the private person or persons share with the government entity the responsibility or risk of developing, owning, maintaining, financing, or operating the project.

Enacted by Chapter 446, 2020 General Session

63N-13-303 Contract with facilitator.

- (1) Within legislative appropriations, the office shall enter into a contract with a nonprofit entity or government entity to act as a facilitator.
- (2) The office shall use a request for proposals process under Title 63G, Chapter 6a, Utah Procurement Code, to select a qualified person to act as facilitator.
- (3) The term of a contract under Subsection (1) may not exceed three years.
- (4) Except as provided in Subsection 63H-1-202(9), the office shall ensure that the contract with the facilitator includes a conflict-of-interest provision prohibiting the facilitator, or a principal, officer, or employee of the facilitator, from receiving a direct or indirect financial benefit from any public-private partnership that results from the facilitator's work under the contract.

Amended by Chapter 414, 2021 General Session

63N-13-304 Contract requirements for a facilitator.

In a contract under Section 63N-13-303, the office shall require a facilitator to:

- (1) be a single point of contact and information on public-private partnerships in the state for:
 - (a) government entities exploring the possibility of filling a public need through a public-private partnership; and
 - (b) private persons exploring investment opportunities in a public project in the state through a public-private partnership;
- (2) work throughout the state to identify government entities that may have an interest in seeking to fill a public need through a public-private partnership;
- (3) work to identify private persons who may have an interest in investment opportunities in public projects in the state through a public-private partnership;
- (4) facilitate the matching of government entities seeking to fill a public need through a public-private partnership with private persons seeking investment opportunities in public projects through a public-private partnership;
- (5) facilitate and assist with the establishment of public-private partnerships for government entities who request the facilitator's assistance in establishing a public-private partnership; and
- (6) make recommendations for the Legislature to consider at the 2021 legislative general session relating to public-private partnerships:
 - (a) to enhance the statutory framework for the establishment of public-private partnerships for public infrastructure projects; and
 - (b) with the goal of moving the state to the forefront throughout the country in the area of private participation in public infrastructure development.

Enacted by Chapter 446, 2020 General Session

63N-13-305 Office oversight over contract performance of facilitator.

The office shall monitor and oversee a facilitator's performance under a contract under Section 63N-13-303 to ensure that the facilitator is fulfilling the requirements of Section 63N-13-304.

Enacted by Chapter 446, 2020 General Session

63N-13-306 Limits on application of this part.

Nothing in this part:

- (1) requires a government entity to use the facilitator to explore the possibility of filling a public need through a public-private partnership; or
- (2) limits the ability of a government entity to directly:
 - (a) solicit a public-private partnership; or
 - (b) respond to a private person exploring an investment opportunity in a public project through a public-private partnership.

Enacted by Chapter 446, 2020 General Session

Chapter 15 COVID-19 Economic Recovery Programs

Part 1 General Provisions

63N-15-101 Title.

This chapter is known as "COVID-19 Economic Recovery Programs."

Enacted by Chapter 12, 2020 Special Session 5

63N-15-102 Definitions.

As used in this chapter:

- (1)
 - (a) "Business entity" means a business that:
 - (i) was in operation in this state on March 1, 2020;
 - (ii) has 250 or fewer full-time equivalent employees;
 - (iii) has employees who report to a physical location in this state; and
 - (iv)
 - (A) is properly registered with the Division of Corporations and Commercial Code;
 - (B) is tax exempt under Section 501(c)(3), (6), or (19) of the Internal Revenue Code;
 - (C) is a Tribal business concern described in 15 U.S.C. Sec. 657a (b)(2)(C); or
 - (D) is an individual who operates under a sole proprietorship, operates as an independent contractor, or is self-employed.
 - (b) "Business entity" does not include a marketplace that connects travelers with private property owners offering accommodation for compensation.
- (2) "CARES Act" means the Coronavirus Aid, Relief, and Economic Security Act, Pub. L. 116-136.
- (3) "COVID-19" means:
 - (a) severe acute respiratory syndrome coronavirus 2; or
 - (b) the disease caused by severe acute respiratory syndrome coronavirus 2.
- (4)
 - (a) "COVID-19 expenses" means the costs incurred by a business entity:

- (i) on or after March 1, 2020, but on or before December 30, 2020; and
- (ii) to comply with COVID-19 public health guidelines on safely returning employees to work.
- (b) "COVID-19 expenses" includes:
 - (i) personal protection equipment for employees and customers;
 - (ii) cleaning and sanitizing supplies;
 - (iii) signage providing public health guidelines;
 - (iv) technology upgrades related to teleworking;
 - (v) costs for office redesign to provide adequate separation between employees or between employees and customers; or
 - (vi) other costs that the office approves as complying with Subsection (4)(a)(ii).
- (5) "Legislative committee" means:
 - (a) the president of the Senate;
 - (b) the speaker of the House of Representatives;
 - (c) the minority leader of the Senate; and
 - (d) the minority leader of the House of Representatives.
- (6) "Monthly revenue decline" means the amount of the business entity's revenue loss in this state for the month calculated by subtracting the month's revenue from:
 - (a) for a business entity that began operating in this state before July 1, 2019, the business entity's revenue in this state for the same month in 2019; and
 - (b) for a business entity that began operating in this state on or after July 1, 2019, the business entity's revenue in this state for February 2020.
- (7) "Oil, gas, or mining business entity" means a business entity that is substantially involved in the extraction of oil, gas, or minerals in the state or directly provides services to oil, gas, or mining businesses in the state.
- (8) "Qualified startup entity" means an entity that:
 - (a) meets the definition of a business entity under Subsection (1) except for Subsection (1)(a)(i);
 - (b) began operations after March 1, 2020, and can demonstrate that the entity is still operational at the time of application; and
 - (c) can demonstrate as required by the office that the entity has incurred expenses and is operating at a net loss due to the public health emergency related to COVID-19.
- (9) "Revenue decline" means the sum of the monthly revenue declines for the months of March through June 2020.

Amended by Chapter 19, 2020 Special Session 6

63N-15-103 Reporting and use of appropriations.

- (1) The office shall include in the office's 2020 and 2021 annual reports to the governor and the Legislature under Section 63N-1a-306 the following information about each of the grant programs established under this chapter:
 - (a) the number of applications submitted under the grant program;
 - (b) the number of grants awarded under the grant program;
 - (c) the aggregate amount of grant funds awarded under the grant program; and
 - (d) any other information the office considers relevant to evaluating the success of the grant program.
- (2) After providing notice to members of the legislative committee, the executive director, in cooperation with the director of the Division of Finance, may move funds among the following programs to make efficient and full use of CARES Act funding:

- (a) the COVID-19 Commercial Rental and Mortgage Assistance Program described in Chapter 14, COVID-19 Commercial Rental and Mortgage Assistance Program;
- (b) any of the programs described in this chapter;
- (c) after consultation with the commissioner of the Department of Agriculture and Food, the COVID-19 Agricultural Operations Grant Program described in Section 4-18-106.1;
- (d) after consultation with the executive director of the Department of Cultural and Community Engagement, the COVID-19 Cultural Assistance Grant Program described in Title 9, Chapter 6, Part 9, COVID-19 Cultural Assistance Grant Program; and
- (e) after consultation with the executive director of the Department of Workforce Services, COVID-19 Residential Housing Assistance described in Title 35A, Chapter 8, Part 23, COVID-19 Residential Housing Assistance.

Amended by Chapter 184, 2021 General Session

Amended by Chapter 282, 2021 General Session

Part 2

COVID-19 Impacted Businesses Grant Program

63N-15-201 Creation of COVID-19 Impacted Businesses Grant Program -- Eligibility -- Grant limits.

- (1) There is established a grant program known as COVID-19 Impacted Businesses Grant Program that is administered by the office in accordance with this part.
- (2) To be eligible to apply for a grant under this part, a business entity or a qualified startup entity:
 - (a)
 - (i) shall have experienced a revenue decline in this state due to the public health emergency related to COVID-19, if the entity is a business entity; or
 - (ii) shall have incurred expenses and be operating at a net loss due to the public health emergency related to COVID-19, if the entity is a qualified startup entity;
 - (b) shall offer a financial incentive:
 - (i) for individuals or businesses to make purchases from the business entity; and
 - (ii) that in aggregate is estimated to equal or exceed 50% of the grant amount that the business entity requests; and
 - (c) shall describe to the office how receipt of grant funds will benefit the state economy.
- (3) Notwithstanding the amount of any grant awarded under this part before August 24, 2020, in awarding a grant to a business entity under this part on or after August 24, 2020, the office may award up to the following amounts:
 - (a) for a business entity whose revenue decline was 50% or more, 75% of the revenue decline;
 - (b) for a business entity whose revenue decline was more than 25% but less than 50%, 50% of the revenue decline; and
 - (c) for a business entity whose revenue decline was 25% or less, 25% of the revenue decline.
- (4)
 - (a) Subject to available funds, the office may only award a grant to a qualified startup entity that applies for the grant on or after September 15, 2020.
 - (b) The office may award an amount up to the amount of the net loss of the qualified startup entity.

Amended by Chapter 19, 2020 Special Session 6

63N-15-202 Duties of the office.

- (1) As soon as is practicable but on or before July 31, 2020, the office shall:
 - (a) establish an application process by which a business entity may apply for a grant under this part, which application shall include:
 - (i) a declaration, signed under penalty of perjury, that the application is complete, true, and correct;
 - (ii) an acknowledgment that the business entity is subject to audit; and
 - (iii) a plan for providing the financial incentive described in Subsection 63N-15-201(2)(b);
 - (b) establish a method for the office to determine which applicants are eligible to receive a grant;
 - (c) establish a formula to award grant funds; and
 - (d) report the information described in Subsections (1)(a) through (c) to the director of the Division of Finance.
- (2) The office shall:
 - (a) participate in the presentation that the director of the Division of Finance provides to the legislative committee under Section 63A-3-111; and
 - (b) consider any recommendations for adjustments to the grant program from the legislative committee.
- (3) Subject to appropriation, beginning on August 5, 2020, the office shall:
 - (a) collect applications for grant funds from business entities;
 - (b) determine which applicants meet the eligibility requirements for receiving a grant; and
 - (c) award the grant funds:
 - (i)
 - (A) after an initial application period that ends on or before August 31, 2020; and
 - (B) if funds remain after the initial application period, on a rolling basis until the earlier of funds being exhausted or December 30, 2020; and
 - (ii) in accordance with the process established under Subsection (1) and the limits described in Subsection 63N-15-201(3).
- (4)
 - (a) The office may audit a business entity to ensure that a business entity experienced the revenue decline reported in the application.
 - (b) The office may recapture grant funds if, after audit, the office determines that a business entity made representations to the office about the business entity's revenue decline that are not complete, true, and correct.
 - (c)
 - (i) A business entity that is subject to recapture shall pay to the Division of Finance a penalty equal to the amount of the grant recaptured multiplied by the applicable income tax rate in Section 59-7-104 or 59-10-104.
 - (ii) The Division of Finance shall deposit the penalty into the Education Fund.
- (5) The office shall encourage any business entity that receives grant funds to commit to following best practices to protect the health and safety of the business entity's employees and customers.
- (6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may make rules to administer the grant program.
- (7) As part of any advertisement of the COVID-19 Impacted Businesses Grant Program, the office:

- (a) shall encourage economically disadvantaged business entities, including minority-owned and woman-owned business entities, that meet the eligibility requirements to apply for grant funds; and
- (b) may feature any business entity that:
 - (i) shows evidence of a commitment to following best practices to protect the health and safety of the business entity's employees and customers; and
 - (ii) consents to being featured.

Enacted by Chapter 12, 2020 Special Session 5

Part 3

COVID-19 PPE Support Grant Program

63N-15-301 Creation of COVID-19 PPE Support Grant Program -- Eligibility -- Grant limits.

- (1) There is established a grant program known as COVID-19 PPE Support Grant Program that is administered by the office in accordance with this part.
- (2) To be eligible to apply for a grant under this part, the business entity shall:
 - (a)
 - (i) demonstrate that the business entity has incurred COVID-19 expenses; or
 - (ii) certify that the business entity will spend grant funds on COVID-19 expenses; and
 - (b) describe to the office the business entity's actual or anticipated cost to comply with public health guidelines on safely returning employees to work.
- (3) The amount of a grant that the office awards to a business entity under this part may not exceed the lesser of:
 - (a) the amount of the business entity's COVID-19 actual and anticipated expenses; or
 - (b) \$250 per full-time equivalent employee.

Amended by Chapter 19, 2020 Special Session 6

63N-15-302 Duties of the office.

- (1) As soon as is practicable but on or before July 31, 2020, the office shall:
 - (a) establish an application process by which a business entity may apply for a grant under this part, which application shall include:
 - (i) a declaration, signed under penalty of perjury, that the application is complete, true, and correct and any estimates about COVID-19 expenses are made in good faith; and
 - (ii) an acknowledgment that the business entity is subject to audit;
 - (b) establish a method for the office to determine which applicants are eligible to receive a grant;
 - (c) establish a formula to award grant funds;
 - (d) establish requirements for grant recipients to retain records of COVID-19 expenses; and
 - (e) report the information described in Subsections (1)(a) through (d) to the director of the Division of Finance.
- (2) The office shall:
 - (a) participate in the presentation that the director of the Division of Finance provides to the legislative committee under Section 63A-3-111; and
 - (b) consider any recommendations for adjustments to the grant program from the legislative committee.

- (3) Subject to appropriation, beginning on August 5, 2020, the office shall:
 - (a) collect applications for grant funds from business entities;
 - (b) determine which applicants meet the eligibility requirements for receiving a grant; and
 - (c) award the grant funds:
 - (i)
 - (A) after an initial application period that ends on or before August 31, 2020; and
 - (B) if funds remain after the initial application period, on a rolling basis until the earlier of funds being exhausted or December 30, 2020; and
 - (ii) in accordance with the process established under Subsection (1) and the limits described in Subsection 63N-15-301(3).
- (4)
 - (a) The office may audit a business entity to ensure that the business entity incurred COVID-19 expenses reported or estimated in the application.
 - (b) The office may recapture grant funds if, after audit, the office determines that:
 - (i) if the business entity made representations about incurred COVID-19 expenses, the representations are not complete, true, and correct; or
 - (ii) if the business entity made representations about estimated COVID-19 expenses, the representations are not made in good faith.
 - (c)
 - (i) A business entity that is subject to recapture shall pay to the Division of Finance a penalty equal to the amount of the grant recaptured multiplied by the applicable income tax rate in Section 59-7-104 or 59-10-104.
 - (ii) The Division of Finance shall deposit the penalty into the Education Fund.
- (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may make rules to administer the grant program.
- (6) As part of any advertisement of the COVID-19 PPE Support Grant Program, the office shall encourage economically disadvantaged business entities, including minority-owned and woman-owned business entities, that meet the eligibility requirements to apply for grant funds.

Enacted by Chapter 12, 2020 Special Session 5

Part 4

COVID-19 Outreach and Education Program

63N-15-401 COVID-19 Outreach and Education Program.

- (1) The office shall develop and implement for the state a public outreach and education program regarding health related to COVID-19.
- (2) The outreach and education program shall:
 - (a) emphasize that, to keep themselves and others healthy, Utah residents should follow recommended COVID-19 related health guidelines, including, when applicable:
 - (i) physical distancing;
 - (ii) mask wearing; and
 - (iii) increased hygiene practices;
 - (b) explain the precautions that Utah medical providers have taken to provide safe medical care in light of the COVID-19 pandemic; and

- (c) encourage Utah residents during the COVID-19 pandemic not to defer treatment from medical providers, including:
 - (i) urgent care;
 - (ii) preventative care; and
 - (iii) vaccinations.

Enacted by Chapter 12, 2020 Special Session 5

Part 5

COVID-19 Oil, Gas, and Mining Grant Program

63N-15-501 COVID-19 Oil, Gas, and Mining Grant Program.

- (1) There is established a grant program known as the COVID-19 Oil, Gas, and Mining Grant Program that is administered by the office in accordance with this part.
- (2) To be eligible to apply for a grant under this part, an oil, gas, or mining business entity that operates in the state:
 - (a) shall have experienced a revenue decline in this state due to the public health emergency related to COVID-19; and
 - (b) shall describe to the office how receipt of grant funds will benefit the state economy.
- (3) The amount of a grant that the office awards to an oil, gas, or mining business entity under this part may not exceed the amount of the business entity's revenue decline.

Amended by Chapter 64, 2021 General Session

63N-15-502 Duties of the office.

- (1) As soon as is practicable, but on or before September 15, 2020, the office shall:
 - (a) establish an application process by which an oil, gas, or mining business entity may apply for a grant under this part, which application shall include:
 - (i) a declaration, signed under penalty of perjury, that the application is complete, true, and correct; and
 - (ii) an acknowledgment that the business entity is subject to audit;
 - (b) collaborate with the Office of Energy Development to establish a method for the office to determine which applicants are eligible to receive a grant;
 - (c) establish a formula to award grant funds; and
 - (d) report the information described in Subsections (1)(a) through (c) to the director of the Division of Finance.
- (2) The office shall consider any recommendations for adjustment to the grant program from the legislative committee.
- (3) Subject to appropriations, beginning on September 15, 2020, the office shall:
 - (a) collect applications for grant funds from oil, gas, or mining business entities;
 - (b) determine which applicants meet the eligibility requirements for receiving a grant; and
 - (c) award the grant funds:
 - (i)
 - (A) after an initial application period that ends on or before September 29, 2020; and
 - (B) if funds remain after the initial application period, on a rolling basis until the earlier of funds being exhausted or December 30, 2020; and

- (ii) in accordance with the process established under Subsection (1) and the limits described in Subsection 63N-15-501(3).
- (4)
 - (a) The office may audit an oil, gas, or mining business entity to ensure that the business entity experienced the revenue decline reported in the application.
 - (b) The office may recapture grant funds if, after the audit, the office determines that a business entity made representations to the office about the business entity's revenue decline that are not complete, true, and correct.
 - (c)
 - (i) A business entity that is subject to recapture shall pay to the Division of Finance a penalty equal to the amount of the grant recaptured multiplied by the applicable income tax rate in Section 59-7-104 or 59-10-104.
 - (ii) The Division of Finance shall deposit the penalty into the Education Fund.
- (5) The office shall encourage any oil, gas, or mining business entity that receives grant funds to commit to following best practices to preserve jobs and to protect the health and safety of the business entity's employees and customers.
- (6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may make rules to administer the grant program.
- (7) As part of any advertisement of the COVID-19 Oil, Gas, and Mining Grant Program, the office:
 - (a) shall encourage economically disadvantaged oil, gas, or mining business entities, including minority-owned and woman-owned business entities, that meet the eligibility requirements to apply for grant funds; and
 - (b) may feature any business entity that:
 - (i) shows evidence of a commitment to following best practices to protect the health and safety of the business entity's employees and customers; and
 - (ii) consents to being featured.

Enacted by Chapter 19, 2020 Special Session 6

Chapter 16

Utah Office of Regulatory Relief

Part 1

General Provisions

63N-16-101 Title.

This chapter is known as the "Utah Office of Regulatory Relief."

Enacted by Chapter 373, 2021 General Session

63N-16-102 Definitions.

As used in this chapter:

- (1) "Advisory committee" means the General Regulatory Sandbox Program Advisory Committee created in Section 63N-16-104.

- (2) "Applicable agency" means a department or agency of the state that by law regulates a business activity and persons engaged in such business activity, including the issuance of licenses or other types of authorization, which the office determines would otherwise regulate a sandbox participant.
- (3) "Applicant" means a person that applies to participate in the regulatory sandbox.
- (4) "Consumer" means a person that purchases or otherwise enters into a transaction or agreement to receive an offering pursuant to a demonstration by a sandbox participant.
- (5) "Demonstrate" or "demonstration" means to temporarily provide an offering in accordance with the provisions of the regulatory sandbox program described in this chapter.
- (6) "Director" means the director of the Utah Office of Regulatory Relief created in Section 63N-16-103.
- (7) "Executive director" means the executive director of the Governor's Office of Economic Opportunity.
- (8) "Innovation" means the use or incorporation of a new idea, a new or emerging technology, or a new use of existing technology to address a problem, provide a benefit, or otherwise offer a product, production method, or service.
- (9) "Innovative offering" means an offering that includes an innovation.
- (10)
 - (a) "Offering" means a product, production method, or service.
 - (b) "Offering" does not include a product, production method, or service that is governed by:
 - (i) Title 31A, Insurance Code, as determined by the insurance commissioner; or
 - (ii) Title 61, Chapter 1, Utah Uniform Securities Act.
- (11) "Product" means a commercially distributed good that is:
 - (a) tangible personal property;
 - (b) the result of a production process; and
 - (c) passed through the distribution channel before consumption.
- (12) "Production" means the method or process of creating or obtaining a good, which may include assembling, breeding, capturing, collecting, extracting, fabricating, farming, fishing, gathering, growing, harvesting, hunting, manufacturing, mining, processing, raising, or trapping a good.
- (13) "Regulatory relief office" means the Utah Office of Regulatory Relief created in Section 63N-16-103.
- (14) "Regulatory sandbox" means the General Regulatory Sandbox Program created in Section 63N-16-201, which allows a person to temporarily demonstrate an offering under a waiver or suspension of one or more state laws or regulations.
- (15) "Sandbox participant" means a person whose application to participate in the regulatory sandbox is approved in accordance with the provisions of this chapter.
- (16) "Service" means any commercial activity, duty, or labor performed for another person.

Enacted by Chapter 373, 2021 General Session

**63N-16-103 Creation of regulatory relief office and appointment of director --
Responsibilities of regulatory relief office.**

- (1) There is created within the Governor's Office of Economic Opportunity the Utah Office of Regulatory Relief.
- (2)
 - (a) The regulatory relief office shall be administered by a director.
 - (b) The director shall report to the executive director and may appoint staff subject to the approval of the executive director.

- (3) The regulatory relief office shall:
 - (a) administer the provisions of this chapter;
 - (b) administer the regulatory sandbox program; and
 - (c) act as a liaison between private businesses and applicable agencies to identify state laws or regulations that could potentially be waived or suspended under the regulatory sandbox program.
- (4) The regulatory relief office may:
 - (a) review state laws and regulations that may unnecessarily inhibit the creation and success of new companies or industries and provide recommendations to the governor and the Legislature on modifying such state laws and regulations;
 - (b) create a framework for analyzing the risk level to the health, safety, and financial well-being of consumers related to permanently removing or temporarily waiving laws and regulations inhibiting the creation or success of new and existing companies or industries;
 - (c) propose potential reciprocity agreements between states that use or are proposing to use similar regulatory sandbox programs as described in this chapter, Section 13-55-103, or Section 31A-47-103; and
 - (d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and the provisions of this chapter, make rules regarding:
 - (i) administering the regulatory sandbox, including making rules regarding the application process and the reporting requirements of sandbox participants; and
 - (ii) cooperating and consulting with other agencies in the state that administer sandbox programs.

Enacted by Chapter 373, 2021 General Session

63N-16-104 Creation and duties of advisory committee.

- (1) There is created the General Regulatory Sandbox Program Advisory Committee.
- (2) The advisory committee shall have 11 members as follows:
 - (a) six members appointed by the director who represent businesses interests and are selected from a variety of industry clusters;
 - (b) three members appointed by the director who represent state agencies that regulate businesses;
 - (c) one member of the Senate, appointed by the president of the Senate; and
 - (d) one member of the House of Representatives, appointed by the speaker of the House of Representatives.
- (3)
 - (a) Subject to Subsection (3)(b), members of the advisory committee who are not legislators shall be appointed to a four-year term.
 - (b) Notwithstanding the requirements of Subsection (3)(a), the director may adjust the length of terms of appointments and reappointments to the advisory committee so that approximately half of the advisory committee is appointed every two years.
- (4) The director shall select a chair of the advisory committee on an annual basis.
- (5) A majority of the advisory committee constitutes a quorum for the purpose of conducting advisory committee business, and the action of the majority of a quorum constitutes the action of the advisory committee.
- (6) The advisory committee shall advise and make recommendations to the regulatory relief office as described in this chapter.
- (7) The regulatory relief office shall provide administrative staff support for the advisory committee.

- (8)
- (a) A member may not receive compensation or benefits for the member's service, but a member appointed under Subsection (2)(a) may receive per diem and travel expenses in accordance with:
 - (i) Sections 63A-3-106 and 63A-3-107; and
 - (ii) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.
 - (b) Compensation and expenses of a member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.
- (9) Meetings of the advisory committee are not subject to Title 52, Chapter 4, Open and Public Meetings Act.

Enacted by Chapter 373, 2021 General Session

63N-16-105 Annual Report.

- (1) The executive director shall include in the annual report described in Section 63N-1a-306 a written report from the director on the activities of the regulatory relief office, which report shall include:
- (a) information regarding each participant in the regulatory sandbox created in Section 63N-16-201, including which industries each participant represents and the anticipated or actual cost savings that each participant experienced;
 - (b) recommendations regarding any laws or regulations that should be permanently modified;
 - (c) information regarding outcomes for consumers; and
 - (d) recommendations for changes to the regulatory sandbox program or other duties of the regulatory relief office.
- (2) By October 1 of each year, the executive director shall provide the written report from the director on the activities of the regulatory relief office described in Subsection (1) to the Business and Labor Interim Committee.

Enacted by Chapter 373, 2021 General Session

Part 2
General Regulatory Sandbox Program

63N-16-201 General Regulatory Sandbox Program -- Application requirements.

- (1) There is created in the regulatory relief office the General Regulatory Sandbox Program.
- (2) In administering the regulatory sandbox, the regulatory relief office:
- (a) shall consult with each applicable agency;
 - (b) shall establish a program to enable a person to obtain legal protections and limited access to the market in the state to demonstrate an innovative offering without obtaining a license or other authorization that might otherwise be required;
 - (c) may enter into agreements with or adopt the best practices of corresponding federal regulatory agencies or other states that are administering similar programs; and
 - (d) may consult with businesses in the state about existing or potential proposals for the regulatory sandbox.
- (3)

- (a) An applicant for the regulatory sandbox may contact the regulatory relief office to request a consultation regarding the regulatory sandbox before submitting an application.
- (b) The regulatory relief office shall provide relevant information regarding the regulatory sandbox program, including informing an applicant whether it would be better to apply for the programs described in Section 13-55-103 or Section 31A-47-103.
- (c) The regulatory relief office may provide assistance to an applicant in preparing an application for submission.
- (4) An applicant for the regulatory sandbox shall provide to the regulatory relief office an application in a form prescribed by the regulatory relief office that:
 - (a) confirms the applicant is subject to the jurisdiction of the state;
 - (b) confirms the applicant has established a physical or virtual location in the state, from which the demonstration of an innovative offering will be developed and performed and where all required records, documents, and data will be maintained;
 - (c) contains relevant personal and contact information for the applicant, including legal names, addresses, telephone numbers, email addresses, website addresses, and other information required by the regulatory relief office;
 - (d) discloses criminal convictions of the applicant or other participating personnel, if any;
 - (e) contains a description of the innovative offering to be demonstrated, including statements regarding:
 - (i) how the offering is subject to licensing, legal prohibition, or other authorization requirements outside of the regulatory sandbox;
 - (ii) each law or regulation that the applicant seeks to have waived or suspended while participating in the regulatory sandbox program;
 - (iii) how the offering would benefit consumers;
 - (iv) how the offering is different from other offerings available in the state;
 - (v) what risks might exist for consumers who use or purchase the offering;
 - (vi) how participating in the regulatory sandbox would enable a successful demonstration of the offering;
 - (vii) a description of the proposed demonstration plan, including estimated time periods for beginning and ending the demonstration;
 - (viii) recognition that the applicant will be subject to all laws and regulations pertaining to the applicant's offering after conclusion of the demonstration; and
 - (ix) how the applicant will end the demonstration and protect consumers if the demonstration fails;
 - (f) lists each government agency, if any, that the applicant knows regulates the applicant's business; and
 - (g) provides any other required information as determined by the regulatory relief office.
- (5) The regulatory relief office may collect an application fee from an applicant that is set in accordance with Section 63J-1-504.
- (6) An applicant shall file a separate application for each innovative offering that the applicant wishes to demonstrate.
- (7) After an application is filed, the regulatory relief office:
 - (a) shall classify the application and any related information provided by the applicant as a protected record in accordance with Subsection 63G-2-305(82);
 - (b) consult with each applicable government agency that regulates the applicant's business regarding whether more information is needed from the applicant; and
 - (c) seek additional information from the applicant that the regulatory relief office determines is necessary.

- (8) No later than five business days after the day on which a complete application is received by the regulatory relief office, the regulatory relief office shall:
 - (a) review the application and refer the application to each applicable government agency that regulates the applicant's business; and
 - (b) provide to the applicant:
 - (i) an acknowledgment of receipt of the application; and
 - (ii) the identity and contact information of each regulatory agency to which the application has been referred for review.
- (9)
 - (a) Subject to Subsections (9)(c) and (9)(g), no later than 30 days after the day on which an applicable agency receives a complete application for review, the applicable agency shall provide a written report to the director of the applicable agency's findings.
 - (b) The report shall:
 - (i) describe any identifiable, likely, and significant harm to the health, safety, or financial well-being of consumers that the relevant law or regulation protects against; and
 - (ii) make a recommendation to the regulatory relief office that the applicant either be admitted or denied entrance into the regulatory sandbox.
 - (c)
 - (i) The applicable agency may request an additional five business days to deliver the written report by providing notice to the director, which request shall automatically be granted.
 - (ii) The applicable agency may only request one extension per application.
 - (d) If the applicable agency recommends an applicant under this section be denied entrance into the regulatory sandbox, the written report shall include a description of the reasons for the recommendation, including why a temporary waiver or suspension of the relevant laws or regulations would potentially significantly harm the health, safety, or financial well-being of consumers or the public and the likelihood of such harm occurring.
 - (e) If the agency determines that the consumer's or public's health, safety, or financial well-being can be protected through less restrictive means than the existing relevant laws or regulations, then the applicable agency shall provide a recommendation of how that can be achieved.
 - (f) If an applicable agency fails to deliver a written report as described in this Subsection (9), the director shall assume that the applicable agency does not object to the temporary waiver or suspension of the relevant laws or regulations for an applicant seeking to participate in the regulatory sandbox.
 - (g) Notwithstanding any other provision of this section, an applicable agency may by written notice to the regulatory relief office:
 - (i) within the 30 days after the day on which the applicable agency receives a complete application for review, or within 35 days if an extension has been requested by the applicable agency, reject an application if the applicable agency determines, in the applicable agency's sole discretion, that the applicant's offering fails to comply with standards or specifications:
 - (A) required by federal law or regulation; or
 - (B) previously approved for use by a federal agency; or
 - (ii) reject an application preliminarily approved by the regulatory relief office, if the applicable agency:
 - (A) recommended rejection of the application in accordance with Subsection (9)(d) in the agency's written report; and
 - (B) provides in the written notice under this Subsection (9)(g), a description of the applicable agency's reasons why approval of the application would create a substantial risk of harm

to the health or safety of the public, or create unreasonable expenses for taxpayers in the state.

- (h) If an applicable agency rejects an application under Subsection (9)(g), the regulatory relief office may not approve the application.

(10)

- (a) Upon receiving a written report described in Subsection (9), the director shall provide the application and the written report to the advisory committee.
- (b) The director may call the advisory committee to meet as needed, but not less than once per quarter if applications are available for review.
- (c) After receiving and reviewing the application and each written report, the advisory committee shall provide to the director the advisory committee's recommendation as to whether or not the applicant should be admitted as a sandbox participant under this chapter.
- (d) As part of the advisory committee's review of each written report, the advisory committee shall use the criteria required for an applicable agency as described in Subsection (9).

(11)

- (a) In reviewing an application and each applicable agency's written report, the regulatory relief office shall consult with each applicable agency and the advisory committee before admitting an applicant into the regulatory sandbox.
- (b) The consultation with each applicable agency and the consultation with the advisory committee may include seeking information about whether:
 - (i) the applicable agency has previously issued a license or other authorization to the applicant; and
 - (ii) the applicable agency has previously investigated, sanctioned, or pursued legal action against the applicant.

- (12) In reviewing an application under this section, the regulatory relief office and each applicable agency shall consider whether a competitor to the applicant is or has been a sandbox participant and, if so, weigh that as a factor in favor of allowing the applicant to also become a sandbox participant.

- (13) In reviewing an application under this section, the regulatory relief office shall consider whether:

- (a) the applicant's plan will adequately protect consumers from potential harm identified by an applicable agency in the applicable agency's written report;
- (b) the risk of harm to consumers is outweighed by the potential benefits to consumers from the applicant's participation in the regulatory sandbox; and
- (c) certain state laws or regulations that regulate an offering should not be waived or suspended even if the applicant is approved as a sandbox participant, including applicable antifraud or disclosure provisions.

(14)

- (a) An applicant becomes a sandbox participant if the regulatory relief office approves the application for the regulatory sandbox and enters into a written agreement with the applicant describing the specific laws and regulations that are waived or suspended as part of participation in the regulatory sandbox.
- (b) Notwithstanding any other provision of this chapter, the regulatory relief office may not enter into a written agreement with an applicant that waives or suspends a tax, fee, or charge that is administered by the State Tax Commission or that is described in Title 59, Revenue and Taxation.

(15)

- (a) The director may deny at the director's sole discretion any application submitted under this section for any reason, including if the director determines that the preponderance of evidence demonstrates that suspending or waiving enforcement of a law or regulation would cause a significant risk of harm to consumers or residents of the state.
- (b) If the director denies an application submitted under this section, the regulatory relief office shall provide to the applicant a written description of the reasons for not allowing the applicant to be a sandbox participant.
- (c) The denial of an application submitted under this section is not subject to:
 - (i) agency or judicial review; or
 - (ii) the provisions of Title 63G, Chapter 4, Administrative Procedures Act.
- (16) The director shall deny an application for participation in the regulatory sandbox described by this section if:
 - (a) the director determines that the applicant should instead apply for the Regulatory Sandbox Program created in Section 13-55-103 for a financial product or service or the Insurance Regulatory Sandbox Program created in Section 31A-47-103 for an insurance product or service; or
 - (b) the applicant or any person who seeks to participate with the applicant in demonstrating an offering has been convicted, entered a plea of nolo contendere, or entered a plea of guilty or nolo contendere held in abeyance, for any crime involving significant theft, fraud, or dishonesty if the crime bears a significant relationship to the applicant's or other participant's ability to safely and competently participate in the regulatory sandbox program.
- (17) When an applicant is approved for participation in the regulatory sandbox, the director may provide notice of the approval to competitors of the applicant and to the public.

Enacted by Chapter 373, 2021 General Session

63N-16-202 Scope of the regulatory sandbox.

- (1) If the regulatory relief office approves an application under this part, the sandbox participant has 12 months after the day on which the application was approved to demonstrate the offering described in the sandbox participant's application.
- (2) An offering that is demonstrated within the regulatory sandbox is subject to the following:
 - (a) each consumer shall be a resident of the state; and
 - (b) no law or regulation may be waived or suspended if waiving or suspending the law or regulation would prevent a consumer from seeking restitution in the event that the consumer is harmed.
- (3) This part does not restrict a sandbox participant who holds a license or other authorization in another jurisdiction from acting in accordance with that license or other authorization.
- (4) A sandbox participant is deemed to possess an appropriate license or other authorization under the laws of the state for the purposes of any provision of federal law requiring licensure or other authorization by the state.
- (5) Subject to Subsection (6):
 - (a) during the demonstration period, a sandbox participant is not subject to the enforcement of state laws or regulations identified in the written agreement between the regulatory relief office and the sandbox participant described in Subsection 63N-16-201(14);
 - (b) a prosecutor may not file or pursue charges pertaining to a law or regulation identified in the written agreement between the regulatory relief office and the sandbox participant described in Subsection 63N-16-201(14) that occurs during the demonstration period; and

- (c) a state agency may not file or pursue any punitive action against a sandbox participant, including a fine or license suspension or revocation, for the violation of a law or regulation that:
 - (i) is identified as being waived or suspended in the written agreement between the regulatory relief office and the sandbox participant described in Subsection 63N-16-201(14); and
 - (ii) occurs during the demonstration period.
- (6) Notwithstanding any other provision of this part, a sandbox participant does not have immunity related to any criminal offense committed during the sandbox participant's participation in the regulatory sandbox.
- (7) By written notice, the regulatory relief office may end a sandbox participant's participation in the regulatory sandbox at any time and for any reason, including if the director determines that a sandbox participant is not operating in good faith to bring an innovative offering to market.
- (8) The regulatory relief office and the regulatory relief office's employees are not liable for any business losses or the recouping of application expenses or other expenses related to the regulatory sandbox, including for:
 - (a) denying an applicant's application to participate in the regulatory sandbox for any reason; or
 - (b) ending a sandbox participant's participation in the regulatory sandbox at any time and for any reason.

Enacted by Chapter 373, 2021 General Session

63N-16-203 Consumer protection for regulatory sandbox.

- (1) Before demonstrating an offering to a consumer, a sandbox participant shall disclose the following to the consumer:
 - (a) the name and contact information of the sandbox participant;
 - (b) that the offering is authorized pursuant to the regulatory sandbox and, if applicable, that the sandbox participant does not have a license or other authorization to provide an offering under state laws that regulate offerings outside of the regulatory sandbox;
 - (c) that the offering is undergoing testing and may not function as intended and may expose the consumer to certain risks as identified by the applicable agency's written report;
 - (d) that the provider of the offering is not immune from civil liability for any losses or damages caused by the offering;
 - (e) that the provider of the offering is not immune from criminal prosecution for violations of state law or regulations that are not suspended or waived as allowed by the regulatory sandbox;
 - (f) that the offering is a temporary demonstration that may be discontinued at the end of the demonstration period;
 - (g) the expected end date of the demonstration period; and
 - (h) that a consumer may contact the regulatory relief office and file a complaint regarding the offering being demonstrated and provide the regulatory relief office's telephone number and website address where a complaint may be filed.
- (2) The disclosures required by Subsection (1) shall be provided to a consumer in a clear and conspicuous form and, for an Internet or application-based offering, a consumer shall acknowledge receipt of the disclosure before any transaction may be completed.
- (3) The regulatory relief office may require that a sandbox participant make additional disclosures to a consumer.

Enacted by Chapter 373, 2021 General Session

63N-16-204 Requirements for exiting regulatory sandbox.

- (1) At least 30 days before the end of the 12-month regulatory sandbox demonstration period, a sandbox participant shall:
 - (a) notify the regulatory relief office that the sandbox participant will exit the regulatory sandbox and discontinue the sandbox participant's demonstration after the day on which the 12-month demonstration period ends; or
 - (b) seek an extension in accordance with Section 63N-16-205.
- (2) Subject to Subsection (3), if the regulatory relief office does not receive notification as required by Subsection (1), the regulatory sandbox demonstration period ends at the end of the 12-month testing period.
- (3) If a demonstration includes an offering that requires ongoing duties, the sandbox participant may continue to do so but will be subject to enforcement of the laws or regulations that were waived or suspended as part of the regulatory sandbox.

Enacted by Chapter 373, 2021 General Session

63N-16-205 Extensions.

- (1) Not later than 30 days before the end of the 12-month regulatory sandbox demonstration period, a sandbox participant may request an extension of the regulatory sandbox demonstration period.
- (2) The regulatory relief office shall grant or deny a request for an extension in accordance with Subsection (1) by the end of the 12-month regulatory sandbox testing period.
- (3) The regulatory relief office may grant an extension in accordance with this section for not more than 12 months after the end of the regulatory sandbox demonstration period.

Enacted by Chapter 373, 2021 General Session

63N-16-206 Record keeping and reporting requirements.

- (1) A sandbox participant shall retain records, documents, and data produced in the ordinary course of business regarding an offering demonstrated in the regulatory sandbox.
- (2) If a sandbox participant ceases to provide an offering before the end of a demonstration period, the sandbox participant shall notify the regulatory relief office and each applicable agency and report on actions taken by the sandbox participant to ensure consumers have not been harmed as a result.
- (3) The regulatory relief office shall establish quarterly reporting requirements for a sandbox participant, including information about any consumer complaints.
- (4) The regulatory relief office may request records, documents, and data from a sandbox participant and, upon the regulatory relief office's request, the sandbox participant shall make such records, documents, and data available for inspection by the regulatory relief office.
- (5)
 - (a) The sandbox participant shall notify the regulatory relief office and each applicable agency of any incidents that result in harm to the health, safety, or financial well-being of a consumer.
 - (b) If a sandbox participant fails to notify the regulatory relief office and each applicable agency of any incidents as described in Subsection (5)(a), or the regulatory relief office or an applicable agency has evidence that significant harm to a consumer has occurred, the regulatory relief office may immediately remove the sandbox participant from the regulatory sandbox.
- (6)

- (a) No later than 30 days after the day on which a sandbox participant exits the regulatory sandbox, the sandbox participant shall submit a written report to the regulatory relief office and each applicable agency describing an overview of the sandbox participant's demonstration, including any:
 - (i) incidents of harm to consumers;
 - (ii) legal action filed against the participant as a result of the participant's demonstration; and
 - (iii) complaints filed with an applicable agency as a result of the participant's demonstration.
- (b) No later than 30 days after the day on which an applicable agency receives the quarterly reporting described in Subsection (3) or a written report from a sandbox participant as described in Subsection (5)(a), the applicable agency shall provide a written report to the regulatory relief office on the demonstration that describes any statutory or regulatory reform the applicable agency recommends as a result of the demonstration.
- (7) The regulatory relief office may remove a sandbox participant from the regulatory sandbox at any time if the regulatory relief office determines that a sandbox participant has engaged in, is engaging in, or is about to engage in any practice or transaction that is in violation of this chapter or that constitutes a violation of a law or regulation for which suspension or waiver has not been granted.

Enacted by Chapter 373, 2021 General Session

Part 3

Regulatory Relief Web Page

63N-16-301 Regulatory relief web page.

- (1) The regulatory relief office shall create and maintain on the GO Utah office's website a web page that invites residents and businesses in the state to make suggestions regarding laws and regulations that could be modified or eliminated to reduce the regulatory burden of residents and businesses in the state.
- (2) On at least a quarterly basis, the regulatory relief office shall compile the results of suggestions from the web page and provide a written report to the governor, the Business and Labor Interim Committee, and the Economic Development and Workforce Services Interim Committee that describes the most common suggestions.
- (3) In creating the report described in Subsection (2), the regulatory relief office and the advisory committee:
 - (a) shall ensure that private information of residents and businesses that make suggestions on the web page is not made public; and
 - (b) may evaluate the suggestions and provide analysis and suggestions regarding which state laws and regulations could be modified or eliminated to reduce the regulatory burden of residents and businesses in the state while still protecting consumers.

Enacted by Chapter 373, 2021 General Session

Chapter 17

Utah Broadband Center and Access Act

Part 1

General Provisions

63N-17-101 Title.

This chapter is known as the "Utah Broadband Center and Access Act."

Enacted by Chapter 282, 2021 General Session

63N-17-102 Definitions.

As used in this chapter:

- (1) "Broadband center" means the Utah Broadband Center created in Section 63N-17-201.
- (2) "Eligible applicant" means:
 - (a) a telecommunications provider or an Internet service provider;
 - (b) a local government entity and one or more private entities, collectively, who are parties to a public-private partnership established for the purpose of expanding affordable broadband access in the state; or
 - (c) a tribal government.
- (3) "Public-private partnership" means an arrangement or agreement between a government entity and one or more private persons to fund and provide for a public need through the development or operation of a public project in which the private person or persons share with the government entity the responsibility or risk of developing, owning, maintaining, financing, or operating the project.
- (4) "Underserved area" means an area of the state that is underserved in terms of the area's access to broadband service, as further defined by rule made by the broadband center.
- (5) "Unserved area" means an area of the state that is rural and unserved in terms of the area's access to broadband service, as further defined by rule made by the broadband center.

Enacted by Chapter 282, 2021 General Session

Part 2

Utah Broadband Center

63N-17-201 Utah Broadband Center -- Creation -- Director -- Duties.

- (1) There is created within the office the Utah Broadband Center.
- (2) The executive director shall appoint a director of the broadband center to oversee the operations of the broadband center.
- (3) The broadband center shall:
 - (a) ensure that publicly funded broadband projects continue to be publicly accessible and provide a public benefit;
 - (b) develop a statewide digital connectivity plan;
 - (c) carry out the duties described in Section 63N-17-202; and
 - (d) administer the Broadband Access Grant Program in accordance with Part 3, Broadband Access Grant Program.

Enacted by Chapter 282, 2021 General Session

63N-17-202 Infrastructure and broadband coordination.

- (1) The broadband center shall partner with the Utah Geospatial Resource Center created in Section 63A-16-505 to collect and maintain a database and interactive map that displays economic development data statewide, including:
 - (a) voluntarily submitted broadband availability, speeds, and other broadband data;
 - (b) voluntarily submitted public utility data;
 - (c) workforce data, including information regarding:
 - (i) enterprise zones designated under Section 63N-2-206;
 - (ii) public institutions of higher education; and
 - (iii) procurement technical assistance centers;
 - (d) transportation data, which may include information regarding railway routes, commuter rail routes, airport locations, and major highways;
 - (e) lifestyle data, which may include information regarding state parks, national parks and monuments, United States Forest Service boundaries, ski areas, golf courses, and hospitals; and
 - (f) other relevant economic development data as determined by the office, including data provided by partner organizations.
- (2) The broadband center may:
 - (a) make recommendations to state and federal agencies, local governments, the governor, and the Legislature regarding policies and initiatives that promote the development of broadband-related infrastructure in the state and help implement those policies and initiatives;
 - (b) facilitate coordination between broadband providers and public and private entities;
 - (c) collect and analyze data on broadband availability and usage in the state, including Internet speed, capacity, the number of unique visitors, and the availability of broadband infrastructure throughout the state;
 - (d) create a voluntary broadband advisory committee, which shall include broadband providers and other public and private stakeholders, to solicit input on broadband-related policy guidance, best practices, and adoption strategies;
 - (e) work with broadband providers, state and local governments, and other public and private stakeholders to facilitate and encourage the expansion and maintenance of broadband infrastructure throughout the state; and
 - (f) in accordance with the requirements of Title 63J, Chapter 5, Federal Funds Procedures Act, and in accordance with federal requirements:
 - (i) apply for federal grants;
 - (ii) participate in federal programs; and
 - (iii) administer federally funded broadband-related programs.

Amended by Chapter 162, 2021 General Session

Renumbered and Amended by Chapter 282, 2021 General Session

Amended by Chapter 345, 2021 General Session

Part 3
Broadband Access Grant Program

63N-17-301 Creation of Broadband Access Grant Program.

- (1) There is established a grant program known as the Broadband Access Grant Program that is administered by the broadband center in accordance with this part.
- (2)
 - (a) The broadband center may award a grant under this part to an eligible applicant who submits to the broadband center an application that includes a proposed project to extend broadband service to individuals and businesses in an unserved area or an underserved area by providing last-mile connections to end users.
 - (b) Subsection (2)(a) does not prohibit the broadband center from awarding a grant for a proposed project that also includes middle-mile elements that are necessary for the last-mile connections.
- (3) In awarding grants under this part, the broadband center shall:
 - (a) based on the following criteria and in the order provided, prioritize proposed projects:
 - (i) located in unserved areas;
 - (ii) located in underserved areas;
 - (iii)
 - (A) that the eligible applicant developed after meaningful engagement with the impacted community to identify the community's needs and innovative means of providing a public benefit that addresses the community's needs; and
 - (B) that include, as a component of the proposed project, a long-term public benefit to the impacted community developed in response to the eligible applicant's engagement with the community;
 - (iv) located in an economically distressed area of the state, as measured by indices of unemployment, poverty, or population loss;
 - (v) that make the greatest investment in last-mile connections;
 - (vi) that provide higher speed broadband access to end users; and
 - (vii) for which the eligible applicant provides at least 25% of the money needed for the proposed project, with higher priority to proposed projects for which the eligible applicant provides a greater percentage of the money needed for the proposed project; and
 - (b) consider the impact of available funding for the proposed project from other sources, including money from matching federal grant programs.
- (4) The broadband center may not award a grant under this part that exceeds \$7,500,000.
- (5) For a project that the eligible applicant cannot complete in a single fiscal year, the broadband center may distribute grant proceeds for the project over the course of the project's construction.
- (6) In awarding grants under this part, the broadband center shall ensure that grant funds are not used in a manner that causes competition among projects that are substantially supported by state funds, as determined in accordance with rule made by the broadband center.
- (7) As provided in and subject to the requirements of Title 63G, Chapter 2, Government Records Access and Management Act, a record submitted to the broadband center that contains a trade secret or confidential commercial information described in Subsection 63G-2-305(2) is a protected record.

Enacted by Chapter 282, 2021 General Session

63N-17-302 Duties of the broadband center.

- (1) The broadband center shall:
 - (a) establish an application process by which an eligible applicant may apply for a grant under this part, which application shall include:

- (i) a declaration, signed under penalty of perjury, that the application is complete, true, and correct; and
- (ii) an acknowledgment that the eligible applicant is subject to audit;
- (b) establish a method for the broadband center to determine which eligible applicants qualify to receive a grant;
- (c) establish a formula to award grant funds; and
- (d) report the information described in Subsections (1)(a) through (c) to the director of the Division of Finance.
- (2) Subject to appropriation, the broadband center shall:
 - (a) collect applications for grant funds from eligible applicants;
 - (b) determine which applicants qualify for receiving a grant; and
 - (c) award the grant funds in accordance with the process established under Subsection (1) and in accordance with Section 63N-17-301.
- (3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the broadband center may make rules to administer the grant program.

Enacted by Chapter 282, 2021 General Session

Chapter 18

Utah Immigration Assistance Center

Part 1

Utah Immigration Assistance Center

63N-18-101 Title.

This chapter is known as the "Utah Immigration Assistance Center."

Enacted by Chapter 304, 2021 General Session

63N-18-102 Definitions.

As used in this chapter:

- (1) "Center" means the Utah Immigration Assistance Center.
- (2) "Foreign labor" means one or more individuals from a nation other than the United States who are eligible to participate in visa programs established by the federal government to work in the state.
- (3) "Foreign labor programs" means programs established by the United States Department of Labor to bring eligible foreign individuals to the United States for employment opportunities.

Enacted by Chapter 304, 2021 General Session

63N-18-103 Creation of the Utah Immigration Assistance Center -- Responsibilities of the Utah Immigration Assistance Center.

- (1) There is created within the Governor's Office of Economic Opportunity the Utah Immigration Assistance Center.
- (2) The center shall:

- (a) coordinate and provide technical support for businesses in the state that intend to utilize federal foreign labor programs;
 - (b) provide outreach and information to businesses that could benefit from foreign labor programs;
 - (c) coordinate with state and federal government partners to facilitate the successful use of foreign labor programs on behalf of businesses in the state; and
 - (d) coordinate with other entities engaged in international efforts.
- (3) The center may not encourage a business to bypass state residents for the business's workforce needs.
- (4) The center may, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules to carry out the center's responsibilities under this chapter.

Enacted by Chapter 304, 2021 General Session

63N-18-104 Annual report.

The office shall include in the annual written report described in Section 63N-1a-306, a report of the center's operations, including:

- (1) the number of businesses that received assistance in utilizing foreign labor programs;
- (2) the number of individuals who were able to work in the state as a result of foreign labor programs; and
- (3) recommendations regarding changes that would improve the center.

Enacted by Chapter 304, 2021 General Session